

**2012**

**Missouri**

# **Legal Malpractice Insurance Report**

**Statistics Section  
July 2013**



**DIFP**

**Jeremiah W. (Jay) Nixon**  
Governor

Department of Insurance,  
Financial Institutions &  
Professional Registration

**John M. Huff**  
Director

# **MISSOURI LEGAL MALPRACTICE INSURANCE REPORT 2012**

**Department of Insurance, Financial Institutions & Professional Registration  
Statistics Section  
July 2013**

# Other Publications

## Available from the Missouri Department of Insurance, Financial Institutions & Professional Registration

The Department of Insurance, Financial Institutions & Professional Registration publishes the following reports. These reports are available by sending a written request along with \$35 to:

**Department of Insurance, Financial Institutions & Professional Registration**  
**P.O. Box 690**  
**Jefferson City, MO 65102-0690**

1. ***Missouri Complaint Index Report***  
summary information: <http://insurance.mo.gov/consumers/complaints/compindx.php>
2. ***Missouri Department of Insurance Annual Report***  
summary information: <http://difp.mo.gov/about.php>
3. ***Missouri Life, Accident & Health Supplement Data***  
summary information: <http://insurance.mo.gov/reports/suppdata/>
4. ***Missouri Market Share Data***  
summary information: <http://insurance.mo.gov/reports/mktshr/>
5. ***Missouri Medical Malpractice (Closed Claim) Report***  
summary information: <http://insurance.mo.gov/reports/medmal/index.php>
6. ***Missouri Product Liability (Closed Claim) Report***  
summary information: <http://insurance.mo.gov/reports/prodliab/>
7. ***Missouri Property & Casualty Supplement Report***  
summary information: <http://insurance.mo.gov/reports/suppdata/>
8. ***Missouri Real Estate Malpractice (Closed Claim) Report***  
summary information: <http://insurance.mo.gov/reports/remal/>
9. ***Mortgage Guaranty Report***  
summary information: <http://insurance.mo.gov/reports/mortguar/>
10. ***Missouri Health Maintenance Organization Report***  
summary information: <http://insurance.mo.gov/reports/hmo/>

**Databases:** For more information: <http://insurance.mo.gov/reports/>

1. Medicare Supplement Experience Data
2. Commercial Liability Experience Data
3. Missouri **Zip Code Insurance Data** for:
  - Homeowners/Dwelling Fire,
  - Farmowners (dwelling only),
  - Mobile Home,
  - Earthquake, and
  - Private Passenger Automobile

Some data is available to the public for a fee by special request only. For additional information, contact the **Statistics Section at (573) 751-4126**.

## DEFINITION OF TERMS

**Indemnity Paid:** The sum of all payments made during the year for the benefit of insurance claimants, before reinsurance has been ceded and/or assumed. These payments include amounts paid in the current year for claims arising from coverage in prior years and exclude amounts which will be paid in future years for claims arising from the current year. Hence, this item is not a measure of the actual cost of current coverages, but only of current cash flows.

**Loss Adjustment Expenses:** The cost involved in an insurance company's adjustment of losses under a policy.

**Direct Premiums Written:** The dollar amount charged when a policyholder contracts for insurance coverage before reinsurance has been ceded and/or assumed.

**Direct Premiums Earned:** The part of premium attributable to the coverage already provided in a given period before reinsurance has been ceded and/or assumed.

**Direct Losses Incurred:** The sum of direct losses paid plus an estimate at the close of the year of the amounts to be paid in the future for all claims arising from the current and all prior years, minus the corresponding estimate made at the close of business for the preceding year. Incurred losses reported include estimated amounts unpaid for incurred-but-not-reported (IBNR) claims.

**Loss Ratio:** The dollar amount of direct losses incurred divided by the dollar amount of premiums earned for the particular line of business being analyzed, expressed as a percentage. This is an accounting representation of the portion of each premium dollar which is needed to honor a company's promise to pay claims.

## **LEGAL MALPRACTICE INSURANCE REPORT EXECUTIVE SUMMARY**

This report summarizes the legal malpractice insurance experience in Missouri from 2003 to 2012.

The charts, graphs and tables in this report are limited to closed claim information and were constructed from data collected by the Department of Insurance, Financial Institutions & Professional Registration as required by Section 383.077 RSMo. The premium and loss data, obtained from the Missouri Page 19 Supplement to the companies' annual statements are presented in the final section.

In 2012, the loss ratio for legal malpractice insurance in Missouri was 65 percent. For the 10-year period of claims closed<sup>1</sup>, 627 (26 percent) were closed with payment. Claims closed in 2012 totaled 226, a 10 percent decrease from the previous year. The average payment was \$189,209.

The cost to an insurer for settling legal malpractice cases (called loss adjustment expense, consisting of legal fees, claim adjustment costs and related items) has fluctuated over the past 10 years. In 2012, the average loss adjustment expense for all claims closed with payment was \$123,990 compared to \$58,335 in 2011.

Indemnity amounts are categorized by claim characteristics, including:

- Area of law in which the insured was retained by the claimant.
- Major activity in which the lawyer was engaged at the time the alleged error or omission occurred.
- Alleged error or omission that was the most significant reason for making the claim.
- The legal disposition of the claim at the closing date.
- The number of years the insured had been in practice at the time of the alleged error or omission.
- The relationship of the insured to the claimant.

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<sup>1</sup> Claims closed may have resulted from incidents in any previous period.

By area of law, the largest share of claims closed in 2012 (42 of 226) was initiated by plaintiffs in *personal injury and property damage cases*. The largest proportion of all claims closed in 2012 under the major activity code occurred during *categories that were not specified*. Of all claims paid during 2012, 65 percent were settled *before trial or hearing* on the alleged malpractice.

Ninety-one percent of losses in 2012 occurred among attorneys with *more than 10 years of practice*. The insured's relationship to the claimant is partitioned into four subclasses: *free legal service, non-client, member of pre-paid legal plan and client other than free service or prepaid legal plan*. Seventy-nine percent of 2012 claims occurred in the category of *client other than free legal service or member of pre-paid legal plan*.

Only 15 companies reported writing legal malpractice insurance in Missouri for 2012. Of these, the Bar Plan Mutual Insurance Company was by far the largest, with over 67 percent of the legal malpractice insurance market in this state.

This report was compiled using information submitted by insurance companies. As a result, the accuracy of this report is dependent upon the correctness of each company's data. Copies of this report will be made available in Braille, large print or on audio cassette upon request. Any questions regarding this report should be addressed to the Statistics Section, Department of Insurance, Financial Institutions & Professional Registration, P.O. Box 690, Jefferson City, MO 65102-0690.

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**TEN YEAR  
SUMMARY  
(2003-2012)**



# LEGAL MALPRACTICE EXPERIENCE

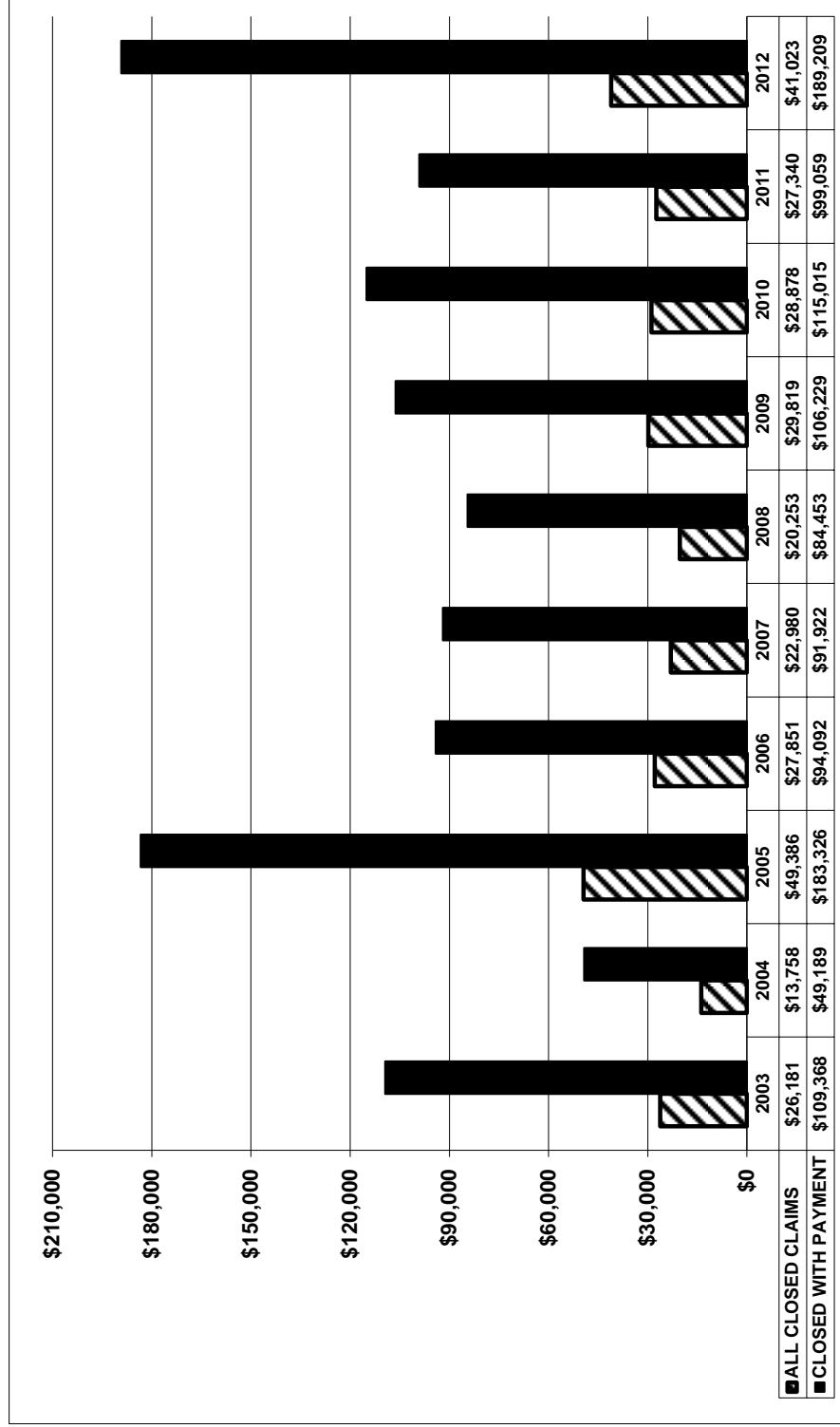
## TEN YEAR SUMMARY

### (2003-2012)

CLOSED CLAIMS	NUMBER OF CLAIMS	PERCENT OF CLAIMS	TOTAL INDEMNITY PAID	AVERAGE INDEMNITY PAID	TOTAL LOSS EXPENSES PAID	AVERAGE LOSS EXPENSE PAID
All Closed Claims	2,407	100.0%	\$68,909,119	\$28,629	\$47,527,588	\$19,746
Closed with Payment	627	26.0%	\$68,909,119	\$109,903	\$25,373,321	\$40,468
Closed without Payment	1,780	74.0%	\$0	\$0	\$22,154,267	\$12,446
Claims Settled Through Court Proceedings	218	9.1%	\$7,449,618	\$34,173	\$13,946,970	\$63,977
Court Proceedings Resulting in Payment	32	1.3%	\$7,449,618	\$232,801	\$4,611,649	\$144,114

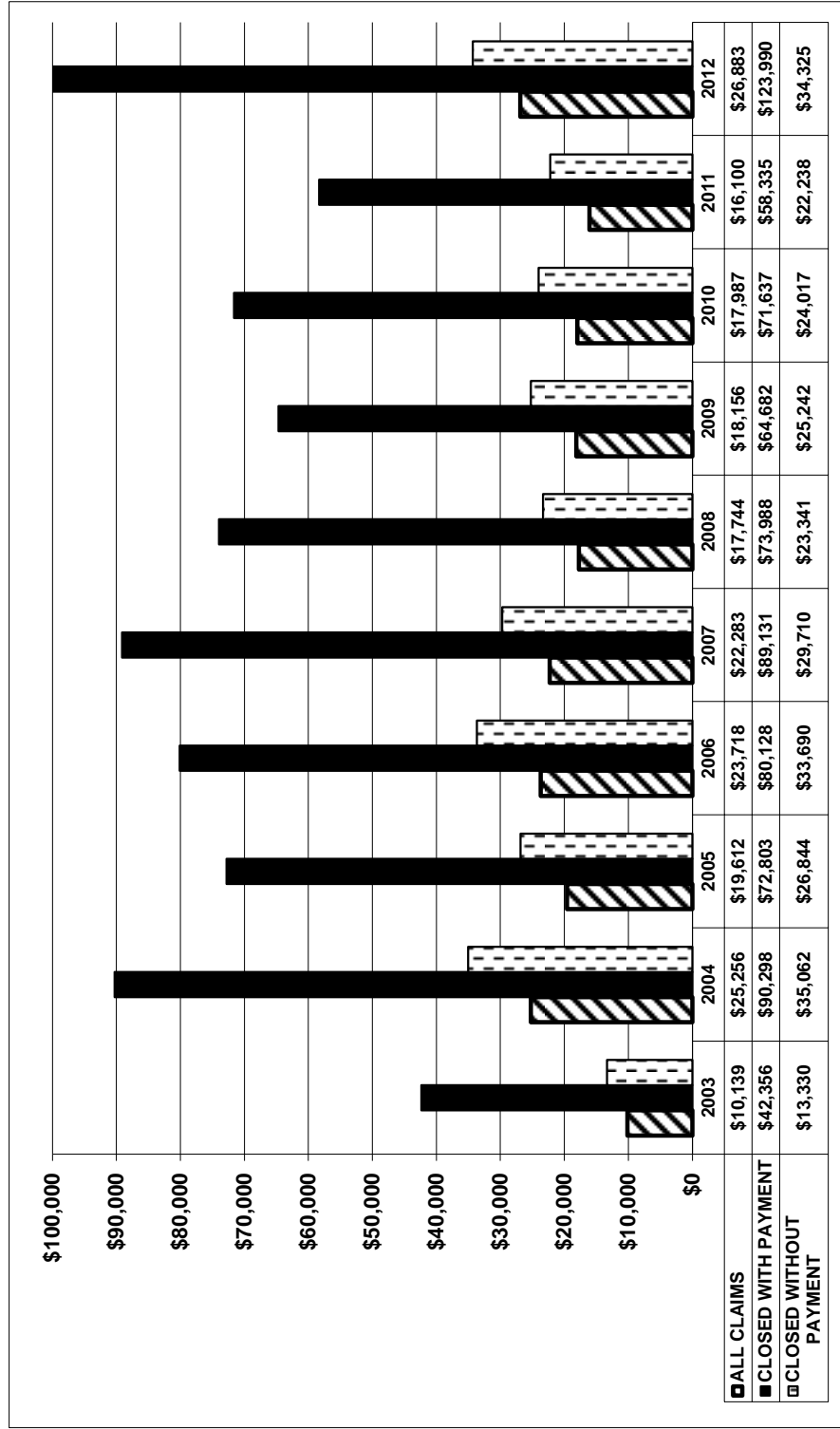
# MISSOURI LEGAL MALPRACTICE INSURANCE

## AVERAGE PAID CLAIM



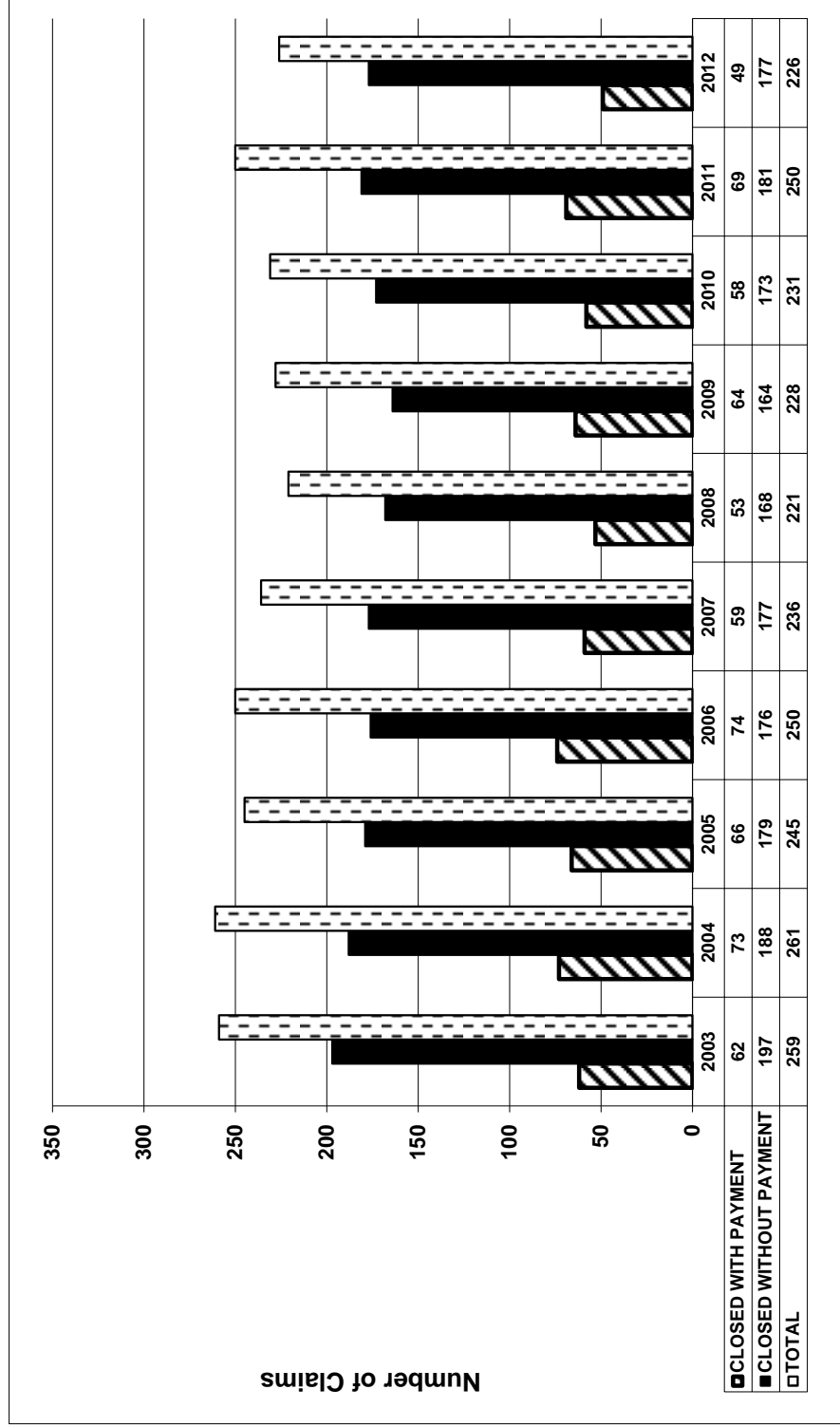
## MISSOURI LEGAL MALPRACTICE INSURANCE

### AVERAGE PAID LOSS ADJUSTMENT EXPENSE



# MISSOURI LEGAL MALPRACTICE INSURANCE

## CLAIM COUNT 2003-2012



**TEN YEAR SUMMARY  
&  
2012 SUMMARY  
BY  
AREA OF LAW**





# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2003-2012

AREA OF LAW	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BI/PD - PLAINTIFF	617	218	34.77%	\$99,323	\$21,652,481	31.42%	\$19,652
COLLECTION & BANKRUPTCY	321	65	10.37%	\$43,069	\$2,799,510	4.06%	\$11,174
FAMILY LAW	277	53	8.45%	\$49,820	\$2,640,469	3.83%	\$11,798
ESTATE, TRUST & PROBATE	257	68	10.85%	\$83,229	\$5,659,557	8.21%	\$17,388
REAL ESTATE	221	48	7.66%	\$211,182	\$10,136,726	14.71%	\$14,001
BUSINESS TRANSACTION/COMMERCIAL LAW	124	35	5.58%	\$180,330	\$6,311,564	9.16%	\$44,533
BI/PD - DEFENDANT	100	21	3.35%	\$326,023	\$6,846,482	9.94%	\$59,713
WORKERS COMPENSATION	94	34	5.42%	\$43,179	\$1,468,096	2.13%	\$14,264
CRIMINAL	89	11	1.75%	\$41,951	\$461,463	0.67%	\$11,273
CORPORATE & BUSINESS ORGANIZATION	86	19	3.03%	\$183,343	\$3,483,514	5.06%	\$17,224
CIVIL RIGHTS & COMMISSION	51	11	1.75%	\$37,390	\$411,294	0.60%	\$10,913
LABOR LAW	40	9	1.44%	\$125,504	\$1,129,535	1.64%	\$28,586
CONSUMER CLAIMS	24	5	0.80%	\$59,400	\$296,999	0.43%	\$18,337
LOCAL GOVERNMENT	20	3	0.48%	\$175,973	\$527,918	0.77%	\$29,384
TAXATION	19	5	0.80%	\$249,900	\$1,249,500	1.81%	\$22,700
CONSTRUCTION (BUILDING CONTRACTS)	15	7	1.12%	\$245,413	\$1,717,892	2.49%	\$56,001
SECURITIES (S.E.C.)	14	4	0.64%	\$143,222	\$572,889	0.83%	\$23,290
PATENTS, TRADEMARKS, COPYRIGHTS	12	4	0.64%	\$281,250	\$1,125,000	1.63%	\$94,379
GOVERNMENT CONTRACTS & CLAIMS	10	1	0.16%	\$30,000	\$30,000	0.04%	\$1,530
IMMIGRATION & NATURALIZATION	10	4	0.64%	\$94,008	\$376,030	0.55%	\$18,299
ADMIRALTY	3	2	0.32%	\$6,100	\$12,200	0.02%	\$1,757
ENVIRONMENT	3	0	0.00%	N/A	\$0	0.00%	\$1,446
TOTAL	2,407	627	100.00%	\$109,903	\$68,909,119	100.00%	\$19,746

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2012

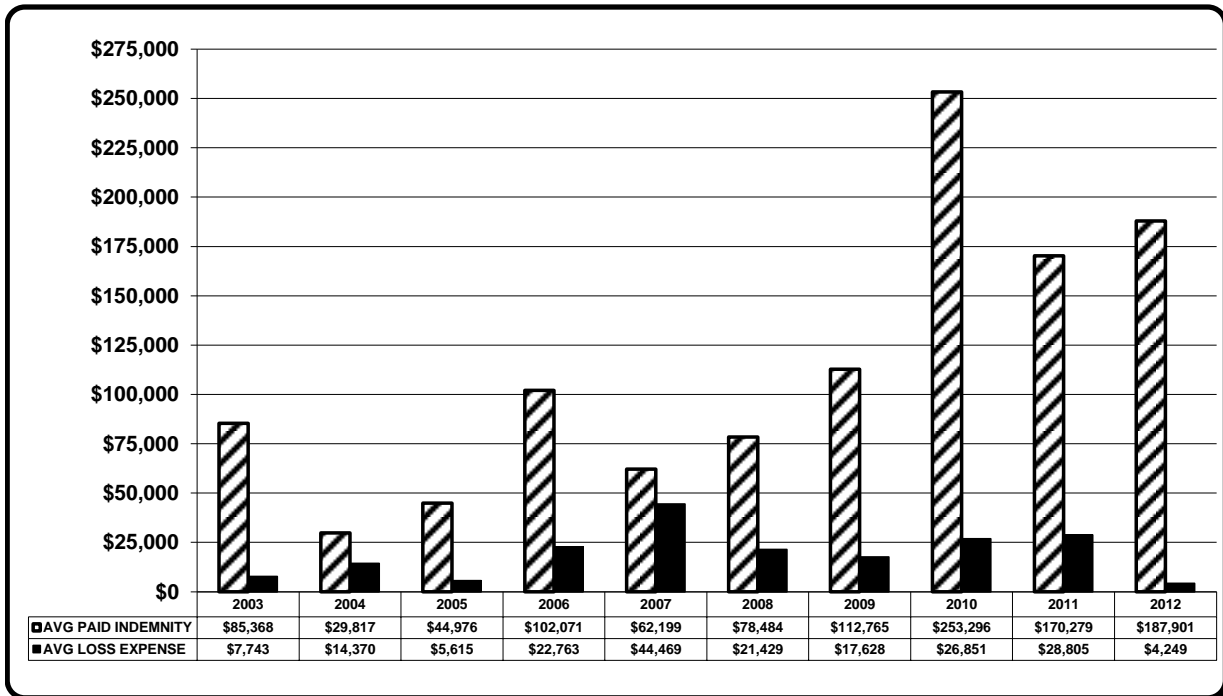
AREA OF LAW	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER CLAIM		TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BI/PD - PLAINTIFF	42	8	16.33%	\$187,901		\$1,503,204	16.21%	\$4,249
COLLECTION & BANKRUPTCY	37	11	22.45%	\$28,745		\$316,200	3.41%	\$12,568
REAL ESTATE	27	4	8.16%	\$450,692		\$1,802,768	19.44%	\$7,646
CORPORATE & BUSINESS ORGANIZATION	22	4	8.16%	\$501,219		\$2,004,875	21.62%	\$15,421
FAMILY LAW	22	5	10.20%	\$31,800		\$159,000	1.71%	\$24,851
ESTATE, TRUST & PROBATE	19	2	4.08%	\$60,000		\$120,000	1.29%	\$9,178
BUSINESS TRANSACTION/COMMERCIAL LAW	14	4	8.16%	\$159,856		\$639,425	6.90%	\$124,469
BI/PD - DEFENDANT	11	3	6.12%	\$148,333		\$445,000	4.80%	\$114,533
CRIMINAL	6	2	4.08%	\$3,750		\$7,500	0.08%	\$8,616
CIVIL RIGHTS & COMMISSION	5	0	0.00%	N/A		\$0	0.00%	\$0
CONSTRUCTION (BUILDING CONTRACTS)	4	2	4.08%	\$322,890		\$645,779	6.97%	\$27,008
LABOR LAW	4	0	0.00%	N/A		\$0	0.00%	\$99,897
SECURITIES (S.E.C.)	3	1	2.04%	\$42,500		\$42,500	0.46%	\$20,877
WORKERS COMPENSATION	3	1	2.04%	\$85,000		\$85,000	0.92%	\$19,961
CONSUMER CLAIMS	2	0	0.00%	N/A		\$0	0.00%	\$1,589
LOCAL GOVERNMENT	2	1	2.04%	\$500,000		\$500,000	5.39%	\$174,204
TAXATION	2	1	2.04%	\$1,000,000		\$1,000,000	10.79%	\$64,658
PATENTS, TRADEMARKS, COPYRIGHTS	1	0	0.00%	N/A		\$0	0.00%	\$0
TOTAL	226	49	100.00%	\$189,209		\$9,271,251	100.00%	\$26,883

**TRENDS  
OF THE TOP TEN  
AREAS OF LAW  
OF 2012**

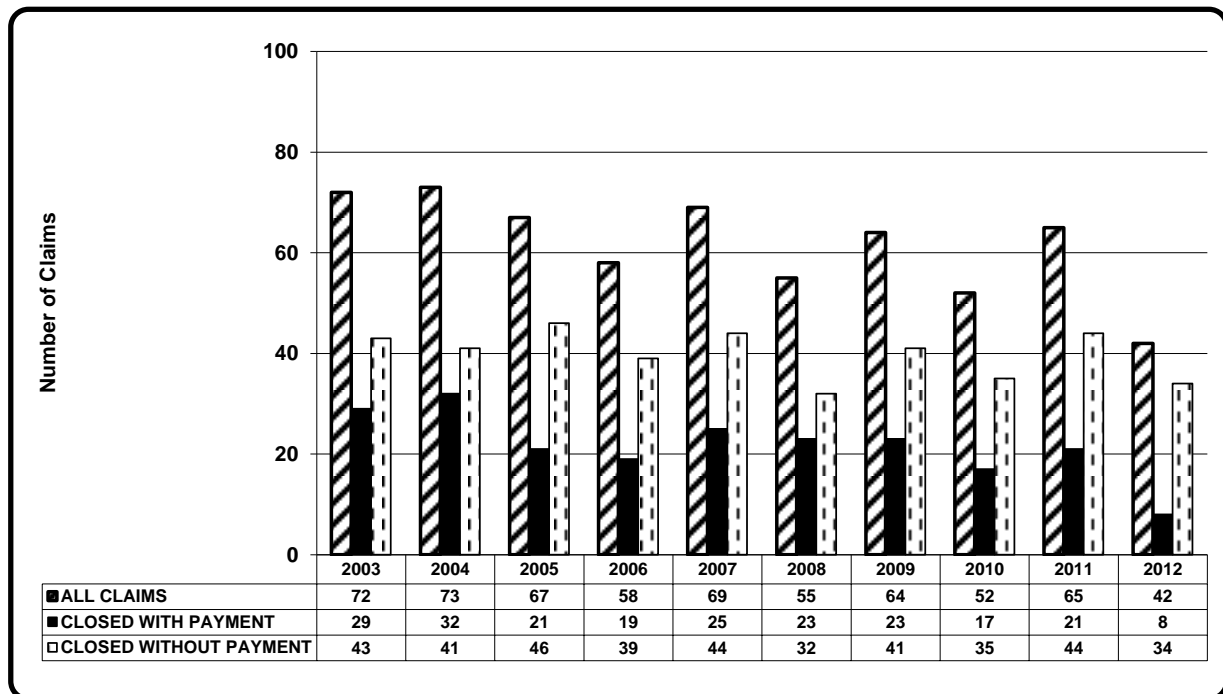


## PERSONAL INJURY/PROPERTY DAMAGE - PLAINTIFF

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

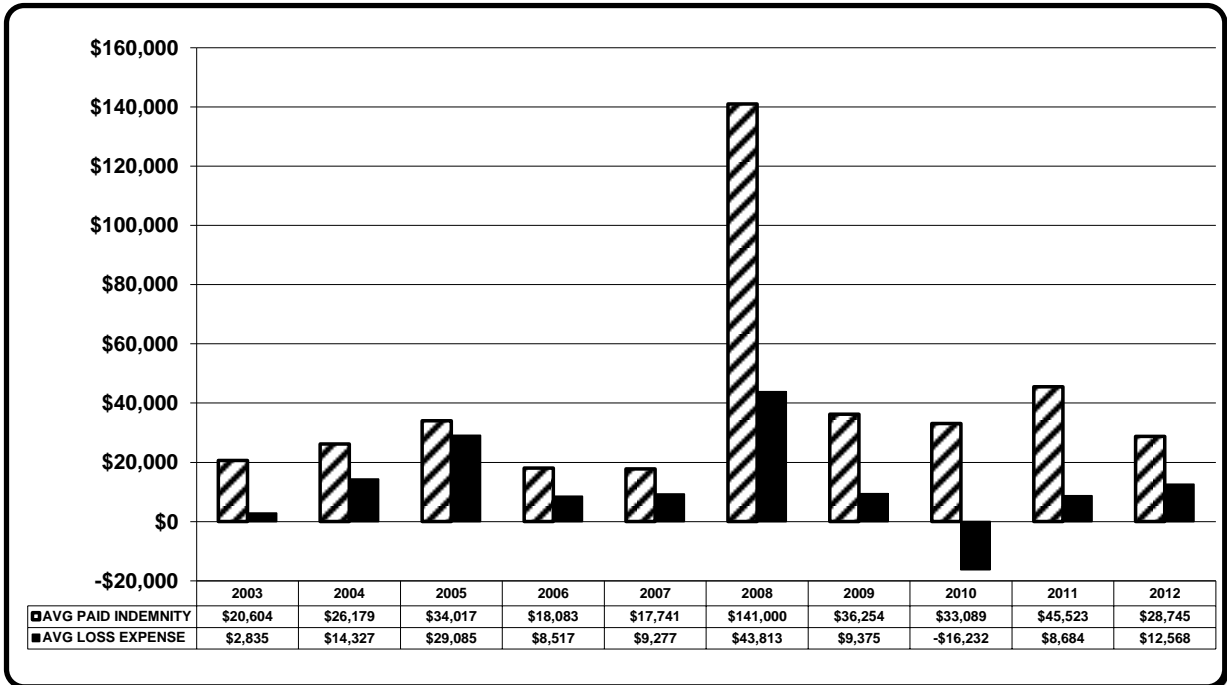


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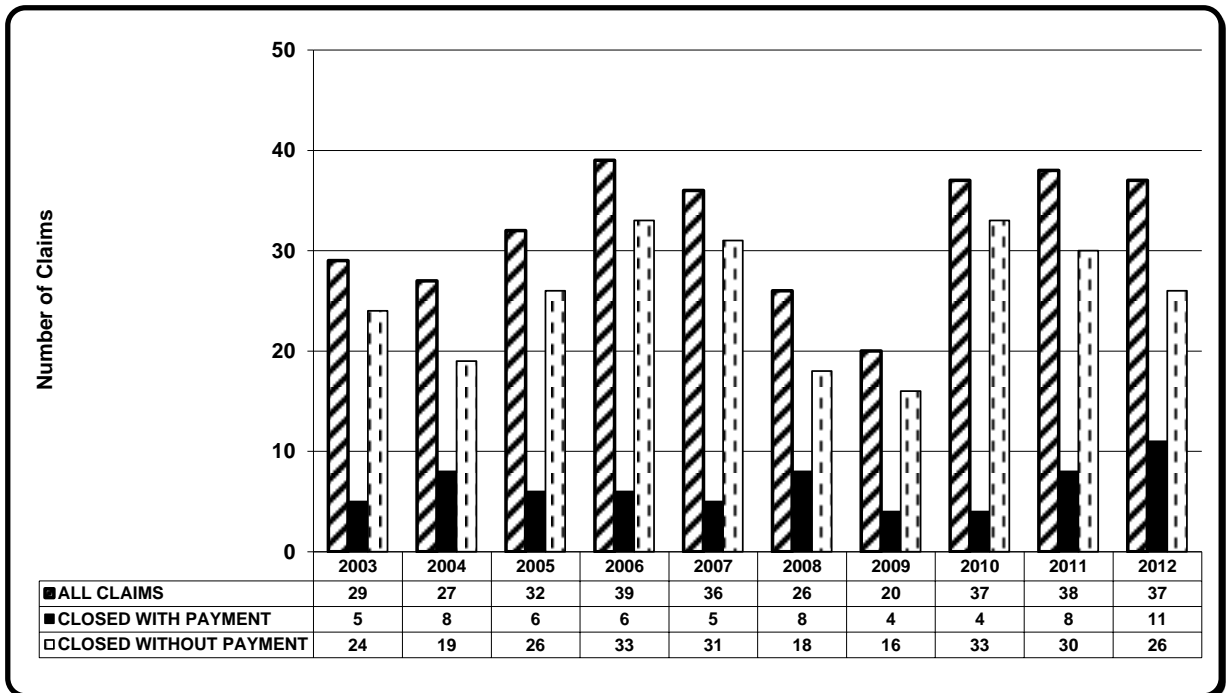


## COLLECTION & BANKRUPTCY

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

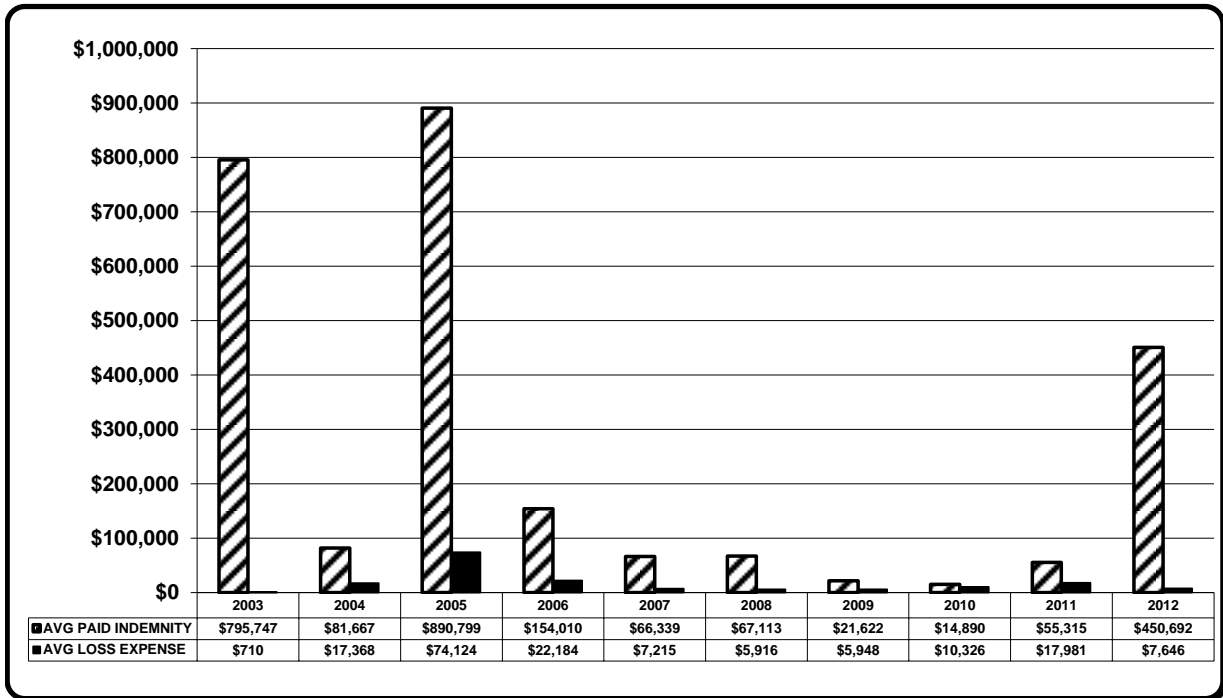


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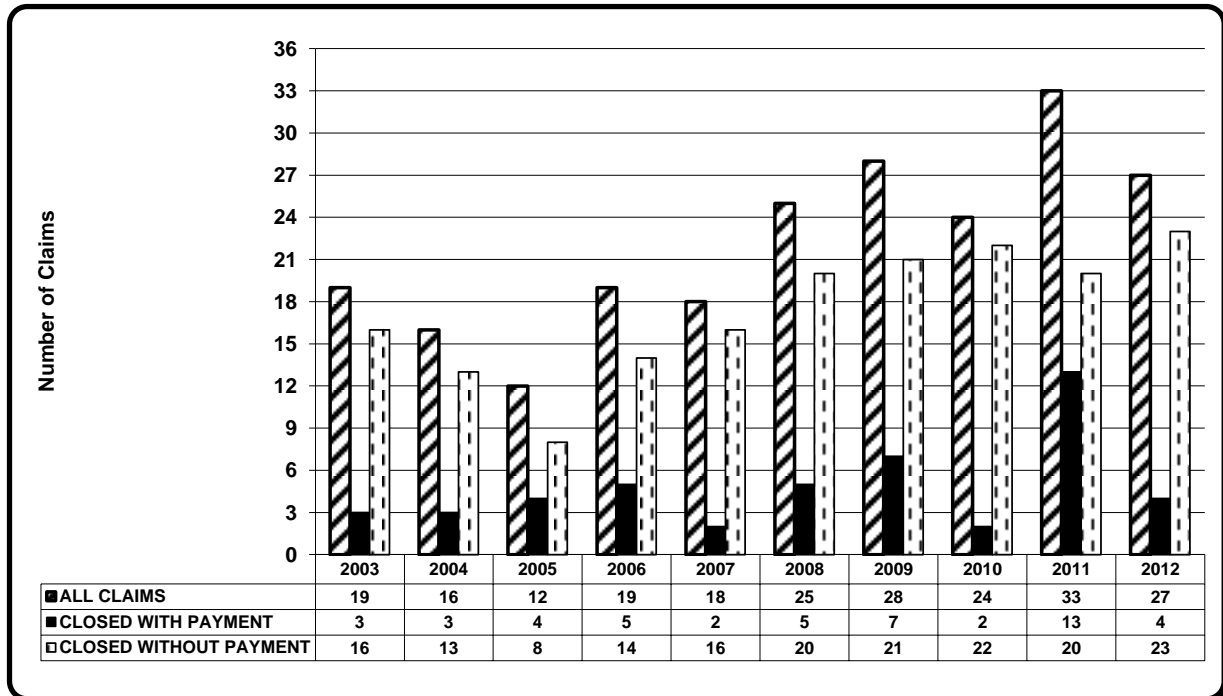


## REAL ESTATE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

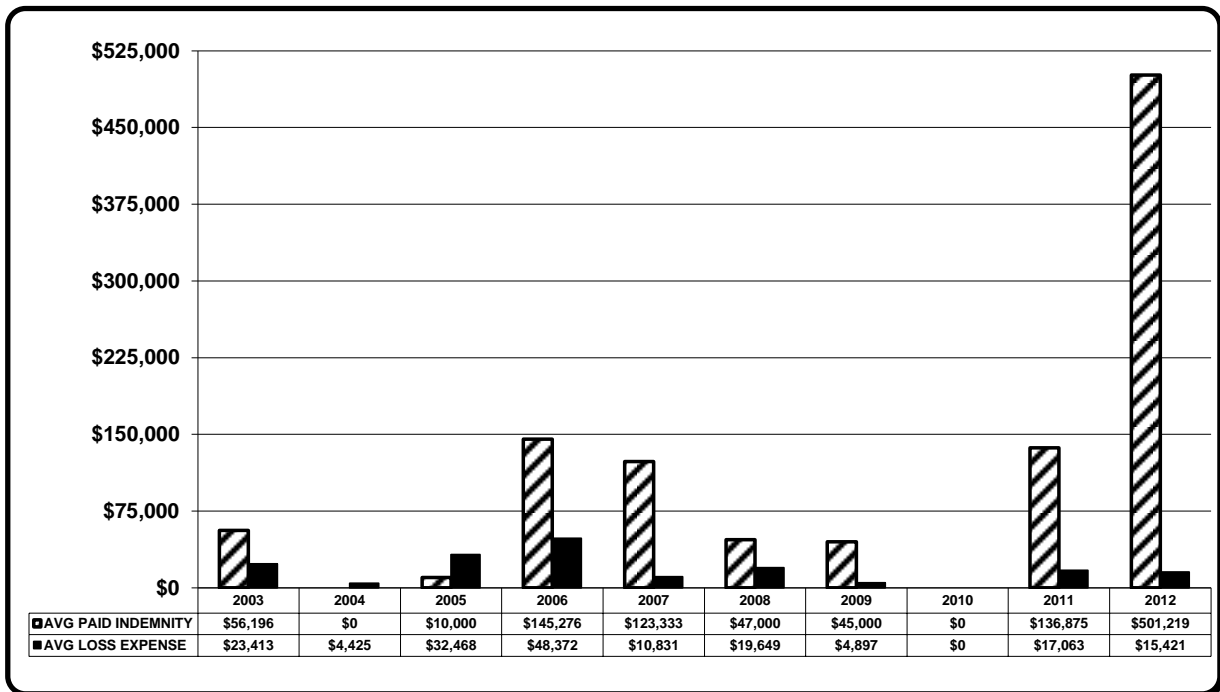


### CLAIM COUNT

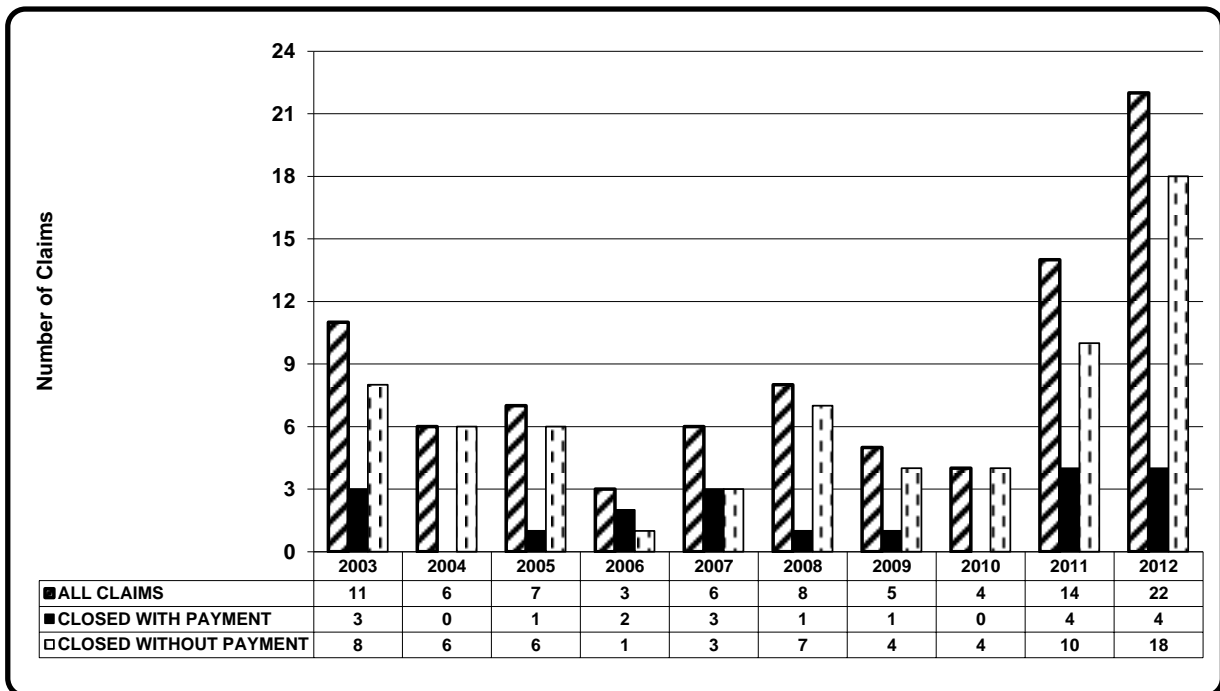


## CORPORATE & BUSINESS ORGANIZATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



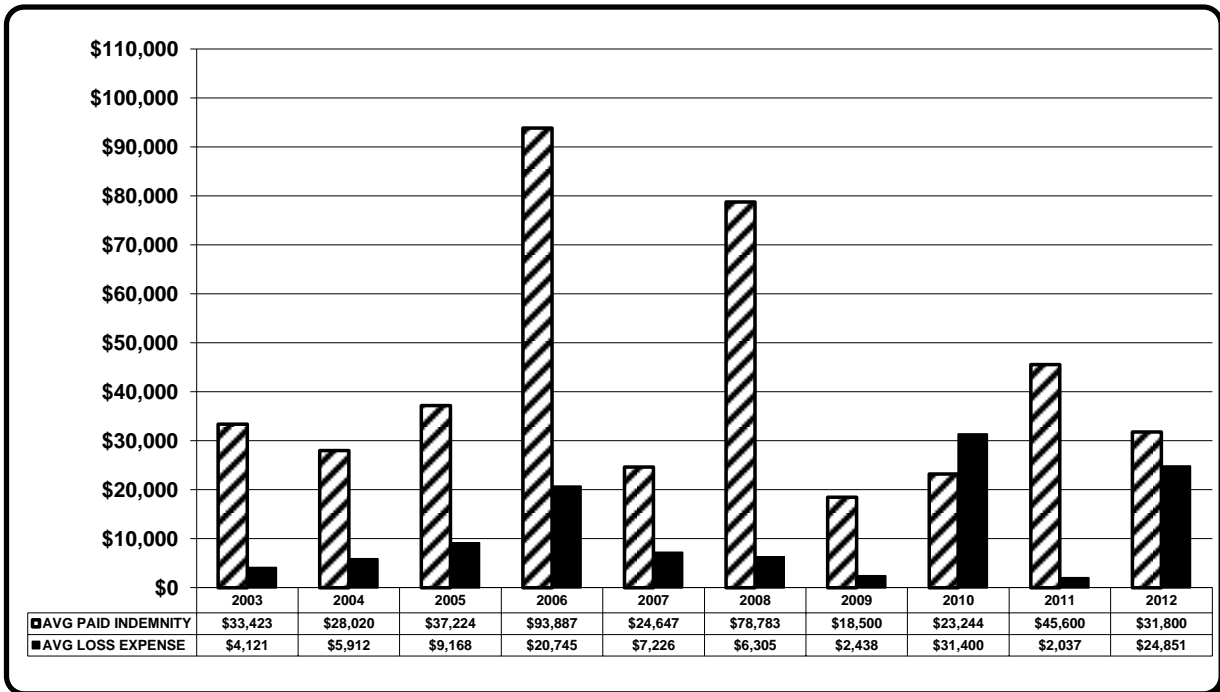
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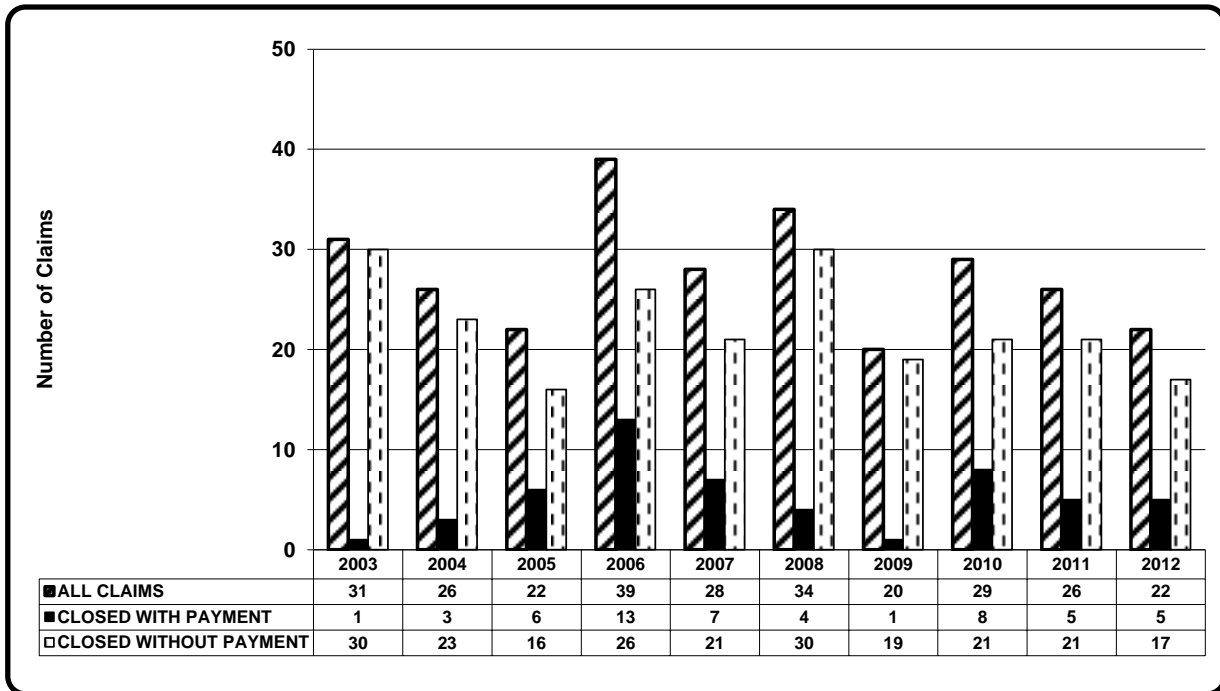


## FAMILY LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

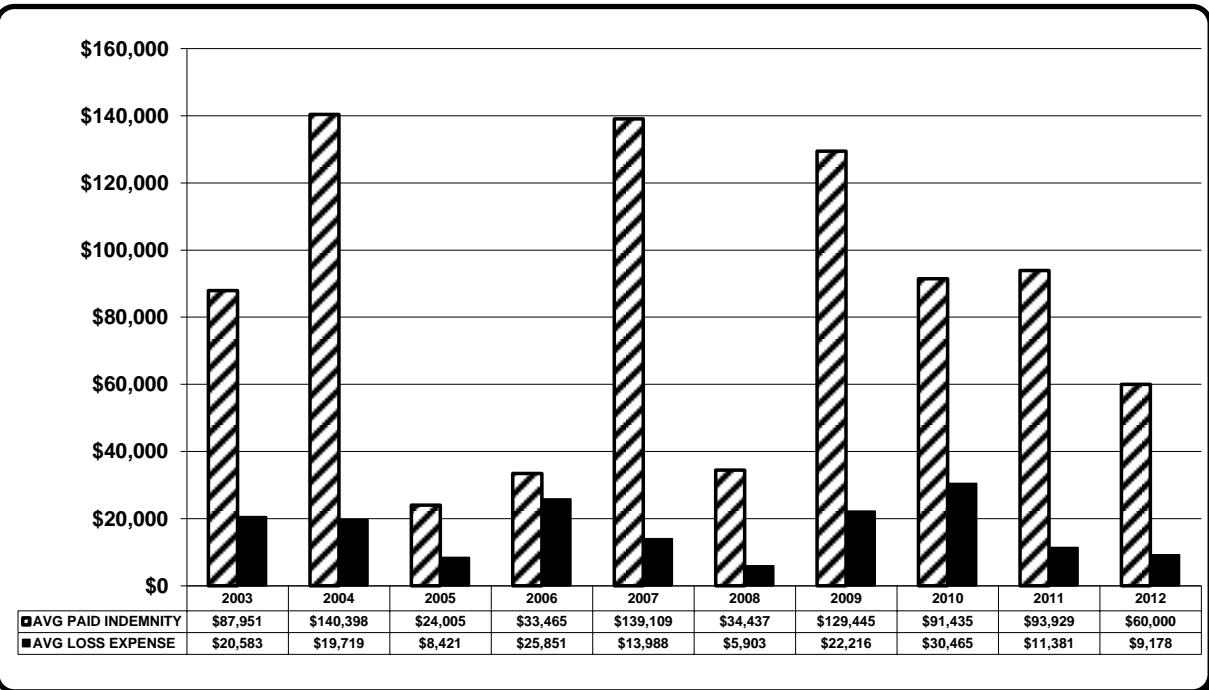


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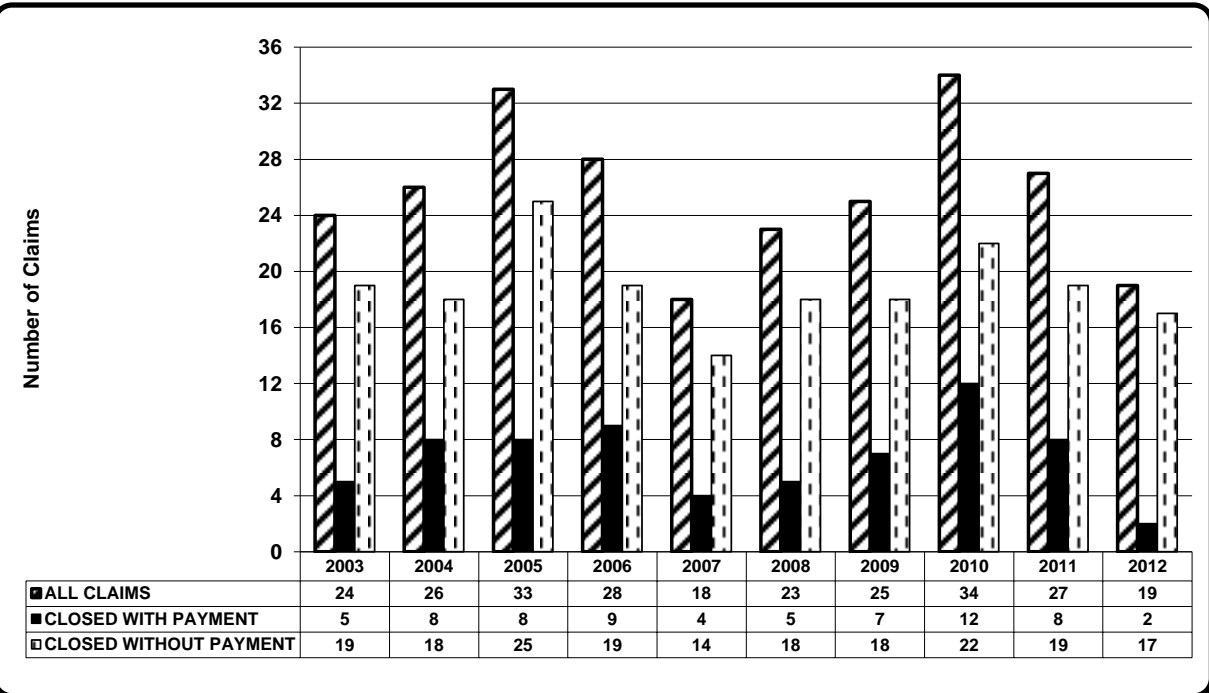


## ESTATE, TRUST & PROBATE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

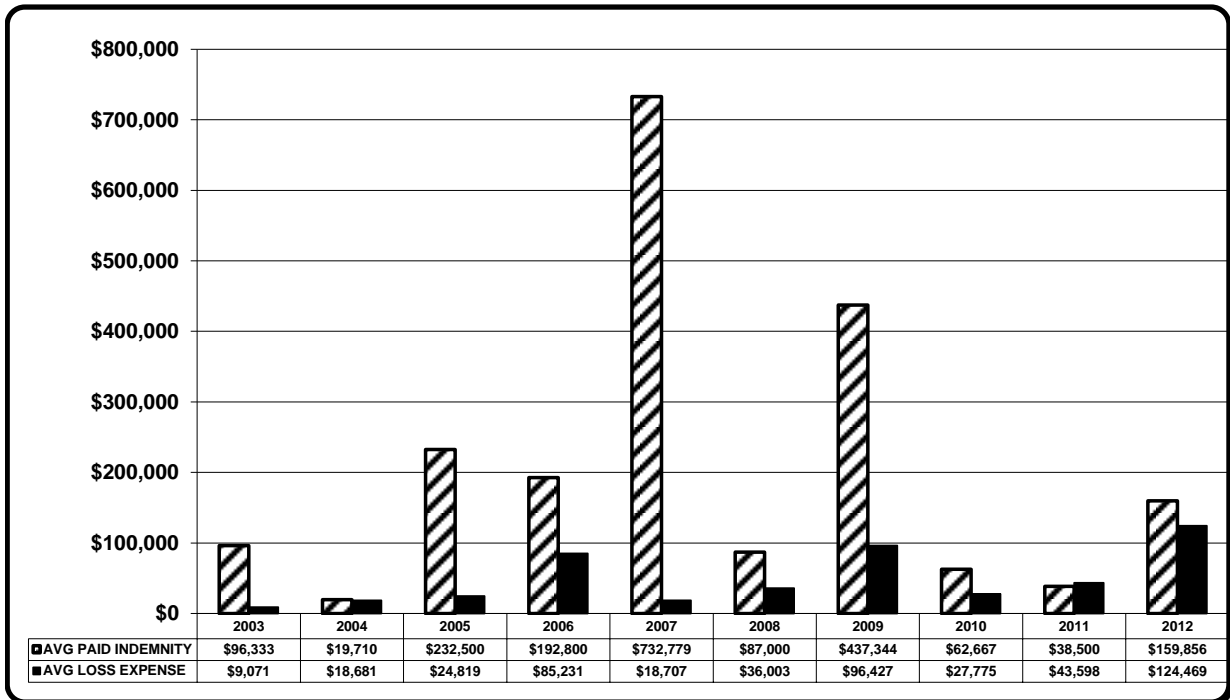


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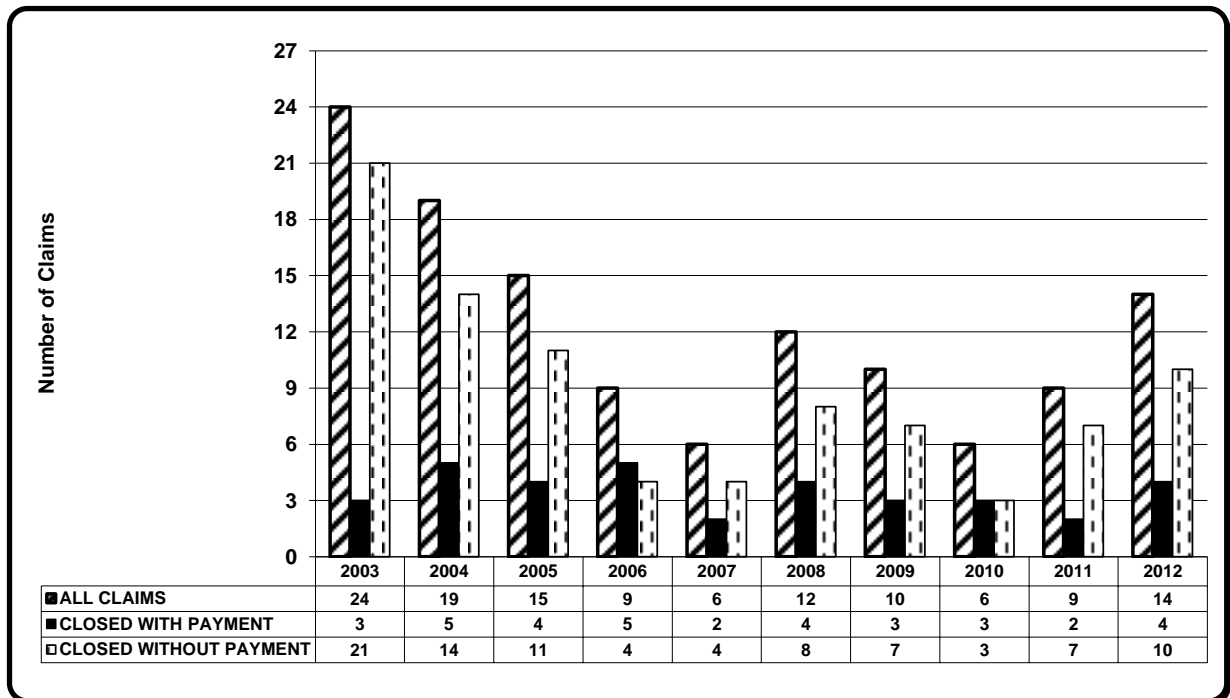


## BUSINESS TRANSACTION/COMMERCIAL LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

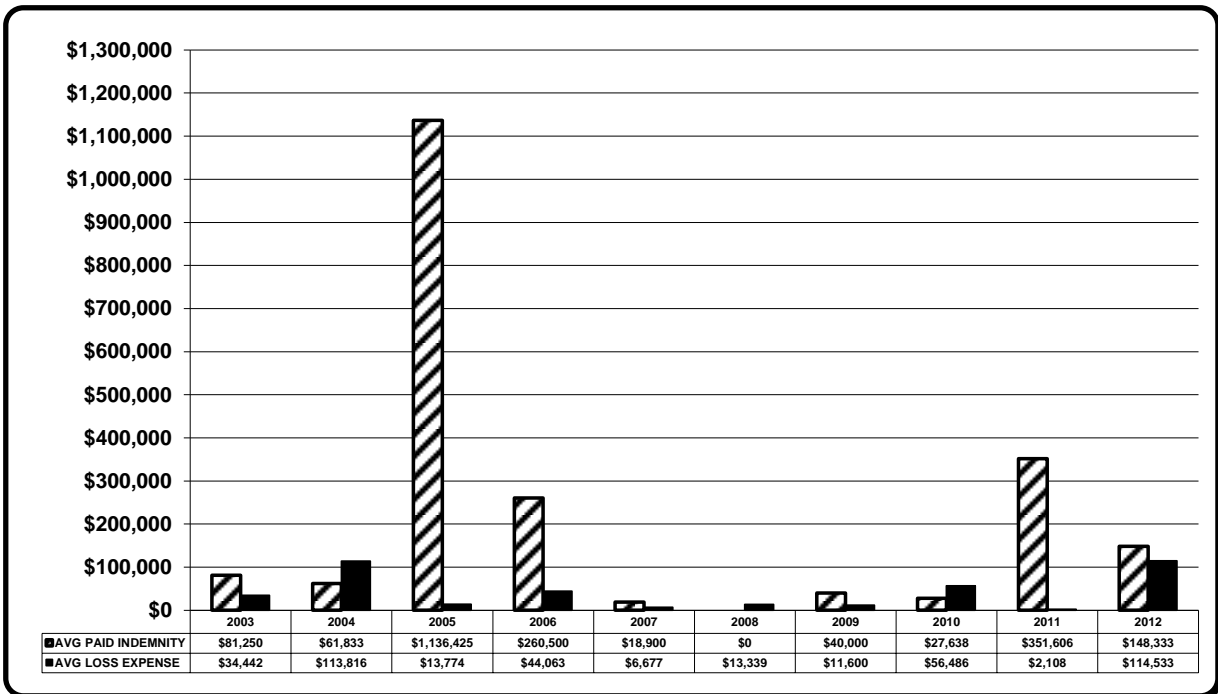


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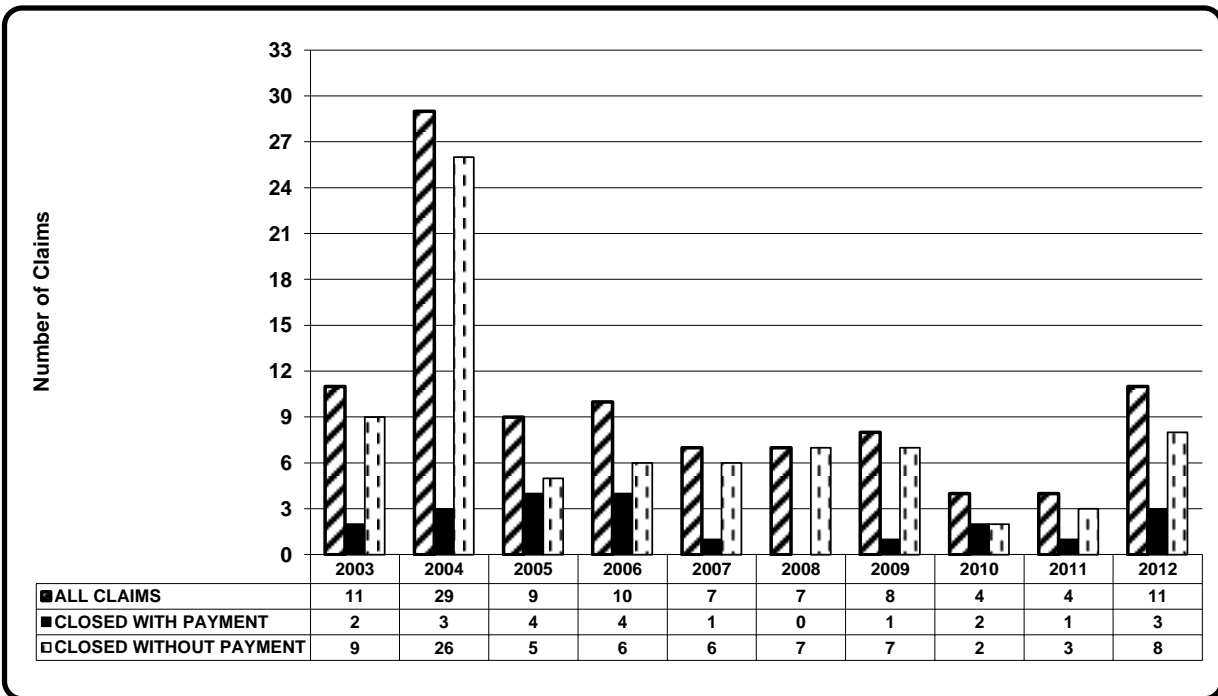


## PERSONAL INJURY/PROPERTY DAMAGE - DEFENDANT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

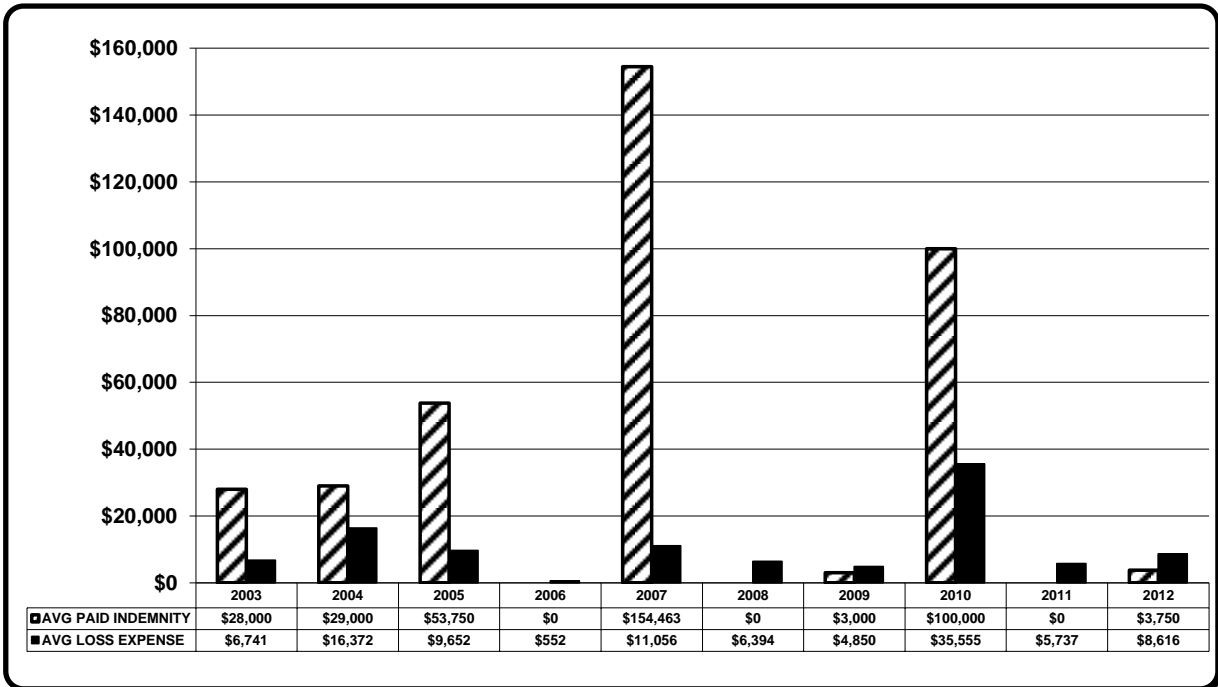


### CLAIM COUNT

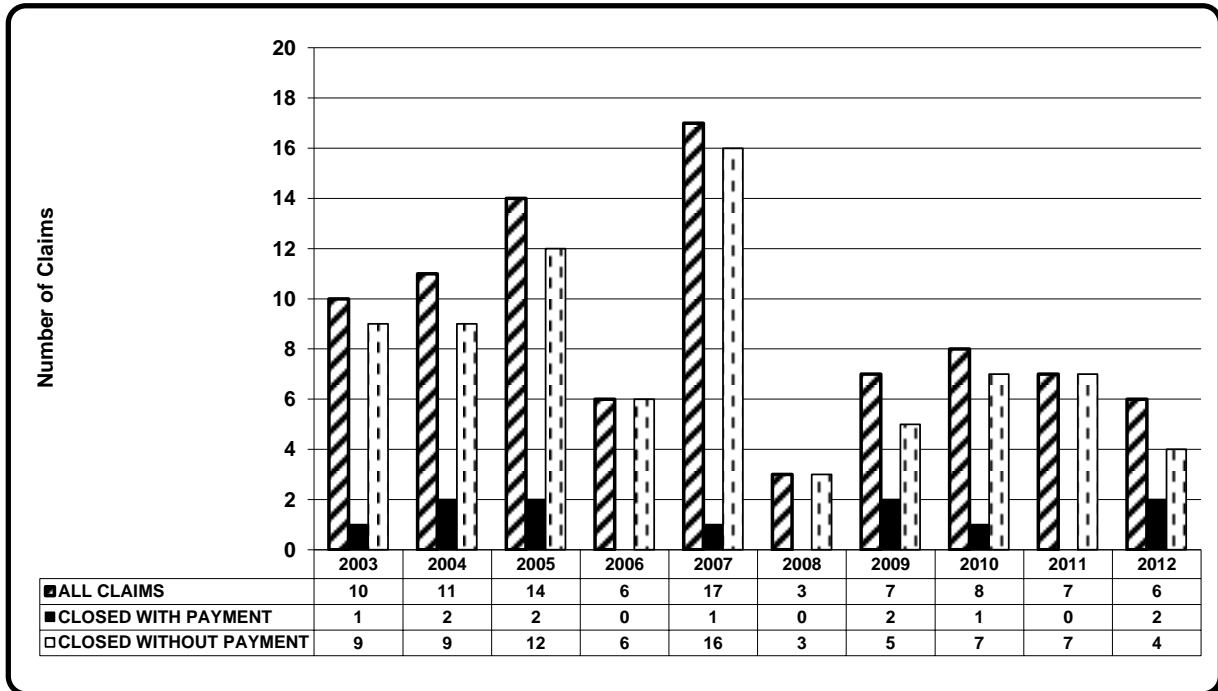


## CRIMINAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

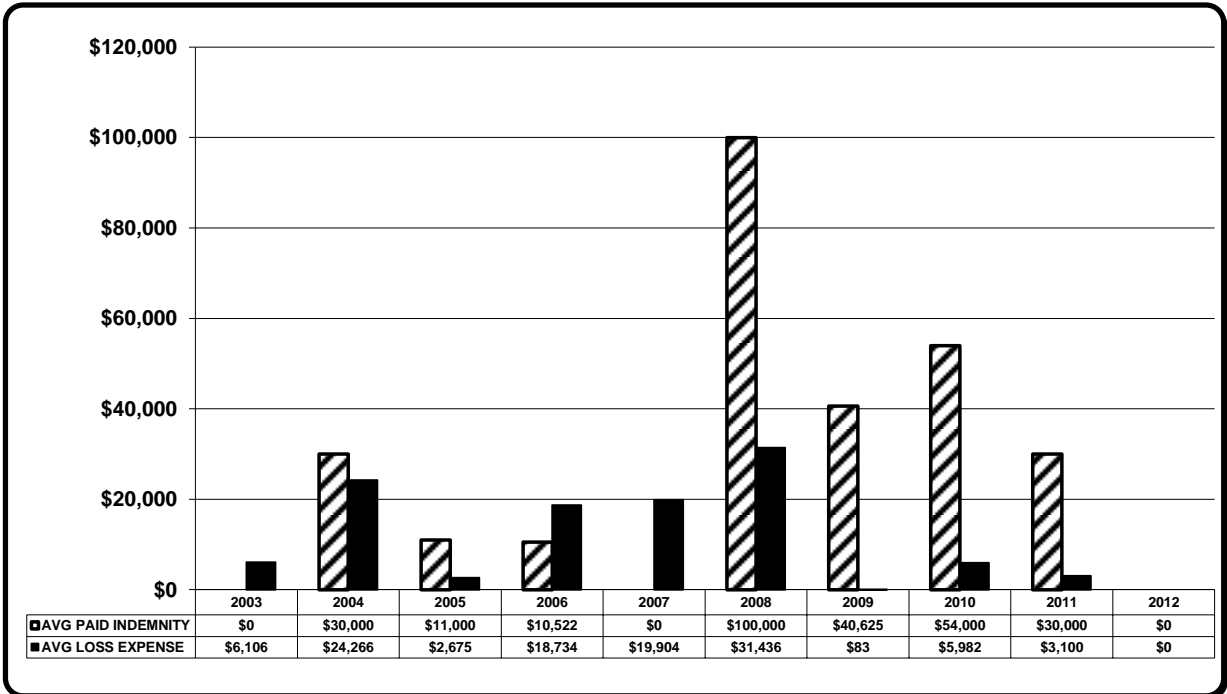


## CLAIM COUNT

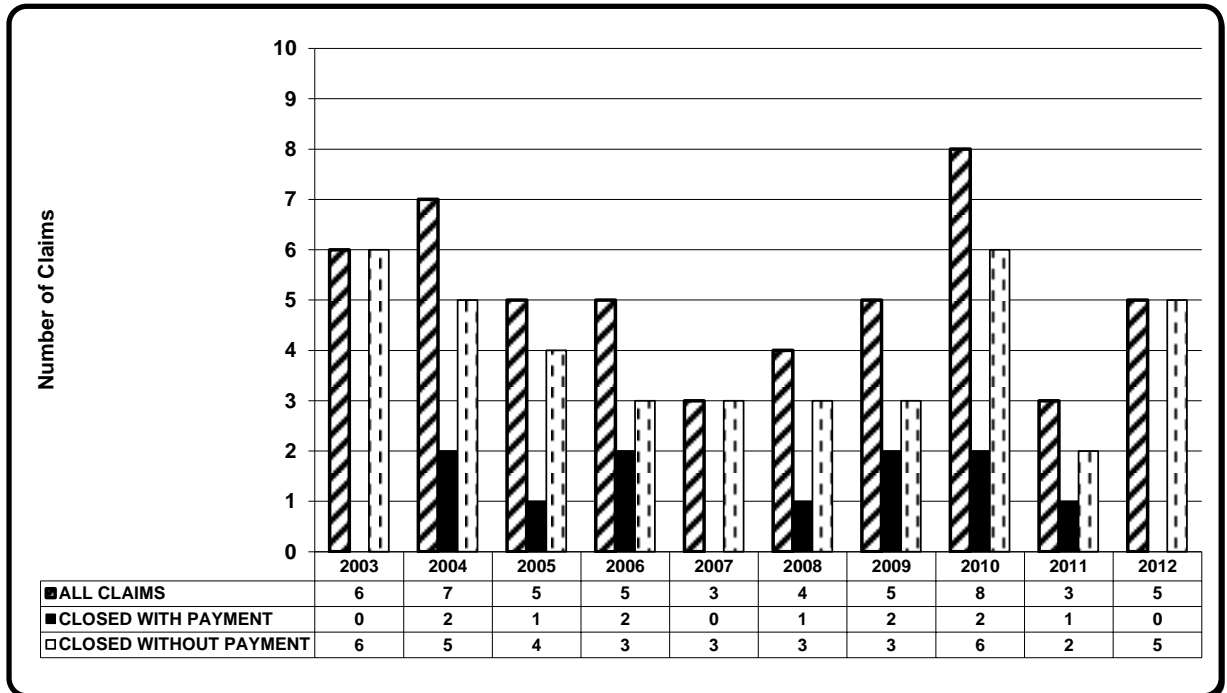


## CIVIL RIGHTS & COMMISSION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2012 SUMMARY  
BY  
MAJOR ACTIVITY**





# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2003-2012

MAJOR ACTIVITY CODE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
COMMENCEMENT OF ACTION OR PROCEEDING	673	200	31.90%	\$96,631	\$19,326,178	28.05%	\$12,752
OTHER	453	99	15.79%	\$80,731	\$7,992,342	11.60%	\$14,348
PREPARATION, TRANSMITTAL OR FILING	239	73	11.64%	\$63,942	\$4,667,740	6.77%	\$22,430
PRE-TRIAL, PRE-HEARING	224	68	10.85%	\$95,834	\$6,516,707	9.46%	\$22,575
CONSULTATION OR ADVICE	185	42	6.70%	\$323,377	\$13,581,816	19.71%	\$49,166
SETTLEMENT AND NEGOTIATION	185	46	7.34%	\$131,541	\$6,050,899	8.78%	\$19,083
INVESTIGATION, OTHER THAN LITIGATION	129	37	5.90%	\$53,311	\$1,972,509	2.86%	\$15,319
TRIAL OR HEARING	118	24	3.83%	\$225,267	\$5,406,396	7.85%	\$32,476
POST TRIAL OR HEARING	78	10	1.59%	\$85,338	\$853,375	1.24%	\$10,925
APPEAL ACTIVITIES	58	11	1.75%	\$53,546	\$589,010	0.85%	\$19,638
EX PARTE PROCEEDINGS	38	12	1.91%	\$44,018	\$528,216	0.77%	\$21,823
TAX REPORTING OR PAYMENT	10	3	0.48%	\$116,359	\$349,078	0.51%	\$30,648
REFERRAL TO ANOTHER PROFESSIONAL	9	0	0.00%	N/A	\$0	0.00%	\$2,751
OTHER WRITTEN OPINION	7	2	0.32%	\$537,427	\$1,074,853	1.56%	\$63,190
TITLE OPINION	1	0	0.00%	N/A	\$0	0.00%	\$0
TOTAL	2,407	627	100.00%	\$109,903	\$68,909,119	100.00%	\$19,746

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2012

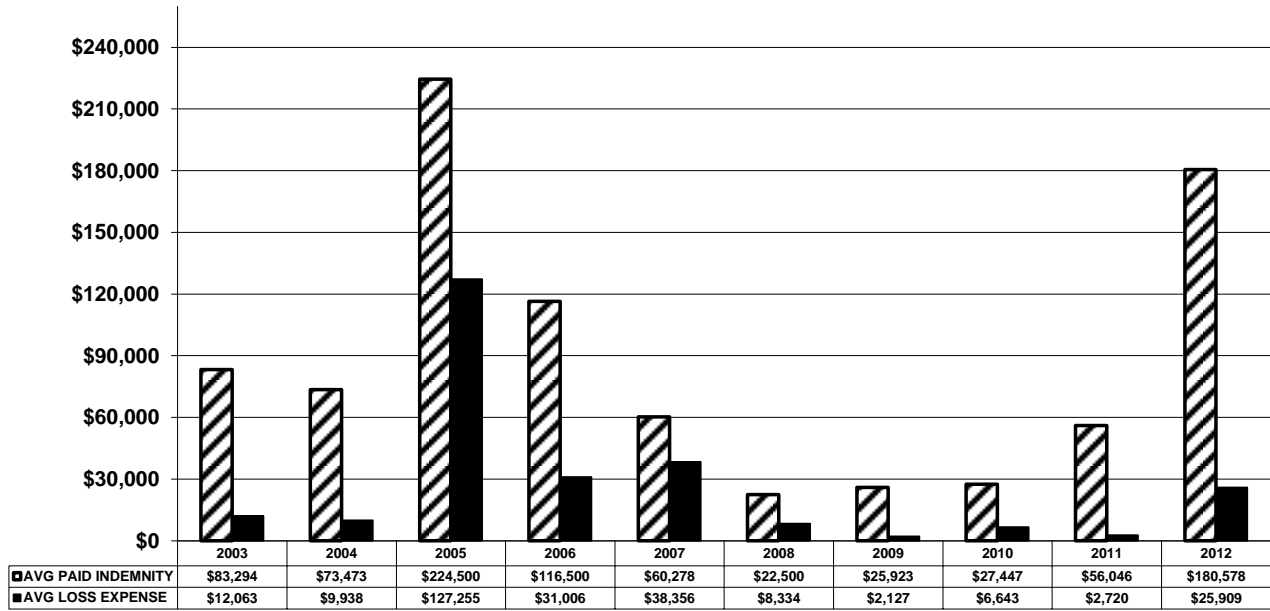
MAJOR ACTIVITY CODE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OTHER	92	15	30.61%	\$180,578	\$2,708,672	29.22%	\$25,909
COMMENCEMENT OF ACTION OR PROCEEDING	60	6	12.24%	\$189,992	\$1,139,954	12.30%	\$5,820
PRE-TRIAL, PRE-HEARING	24	12	24.49%	\$139,969	\$1,679,625	18.12%	\$61,100
SETTLEMENT AND NEGOTIATION	10	3	6.12%	\$68,000	\$204,000	2.20%	\$18,252
TRIAL OR HEARING	9	4	8.16%	\$432,500	\$1,730,000	18.66%	\$14,701
CONSULTATION OR ADVICE	8	1	2.04%	\$1,000,000	\$1,000,000	10.79%	\$76,689
PREPARATION, TRANSMITTAL OR FILING	7	2	4.08%	\$97,500	\$195,000	2.10%	\$22,834
INVESTIGATION, OTHER THAN LITIGATION	4	1	2.04%	\$5,000	\$5,000	0.05%	\$0
POST TRIAL OR HEARING	4	2	4.08%	\$19,500	\$39,000	0.42%	\$31,038
APPEAL ACTIVITIES	2	0	0.00%	N/A	\$0	0.00%	\$134,282
EX PARTE PROCEEDINGS	2	1	2.04%	\$5,000	\$5,000	0.05%	\$2,500
OTHER WRITTEN OPINION	2	1	2.04%	\$500,000	\$500,000	5.39%	\$164,858
TAX REPORTING OR PAYMENT	2	1	2.04%	\$65,000	\$65,000	0.70%	\$30,312
TOTAL	226	49	100.00%	\$189,209	\$9,271,251	100.00%	\$26,883

**TRENDS  
OF THE TOP TEN  
MAJOR ACTIVITY  
OF 2012**

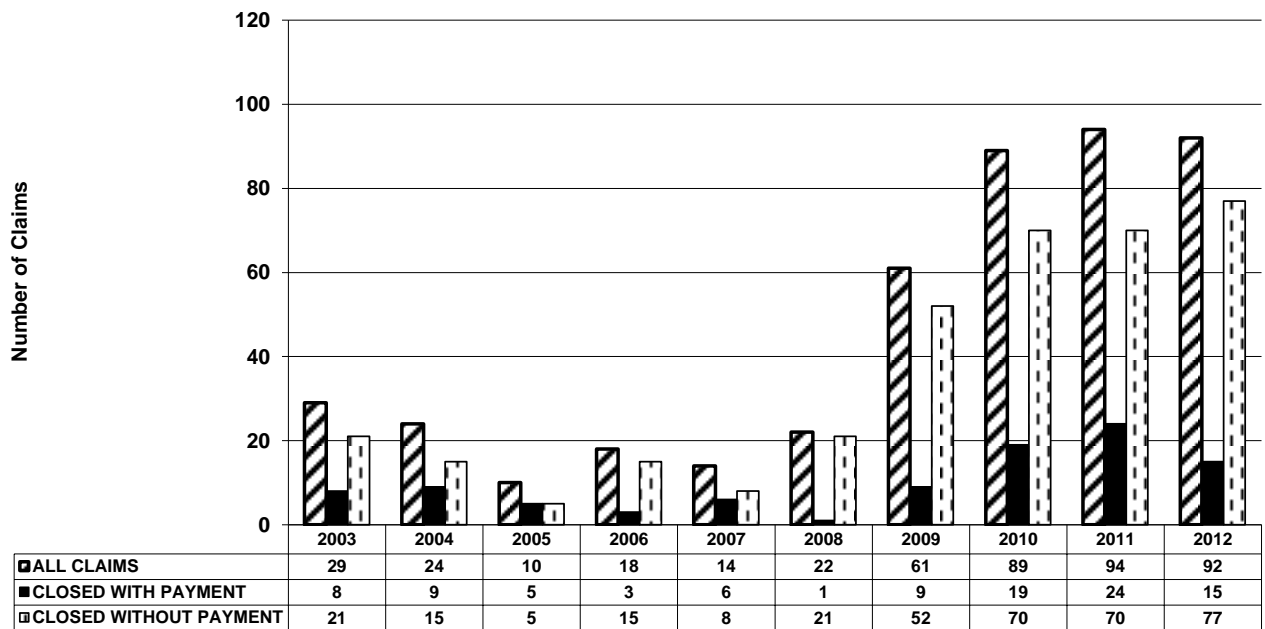


## OTHER

AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

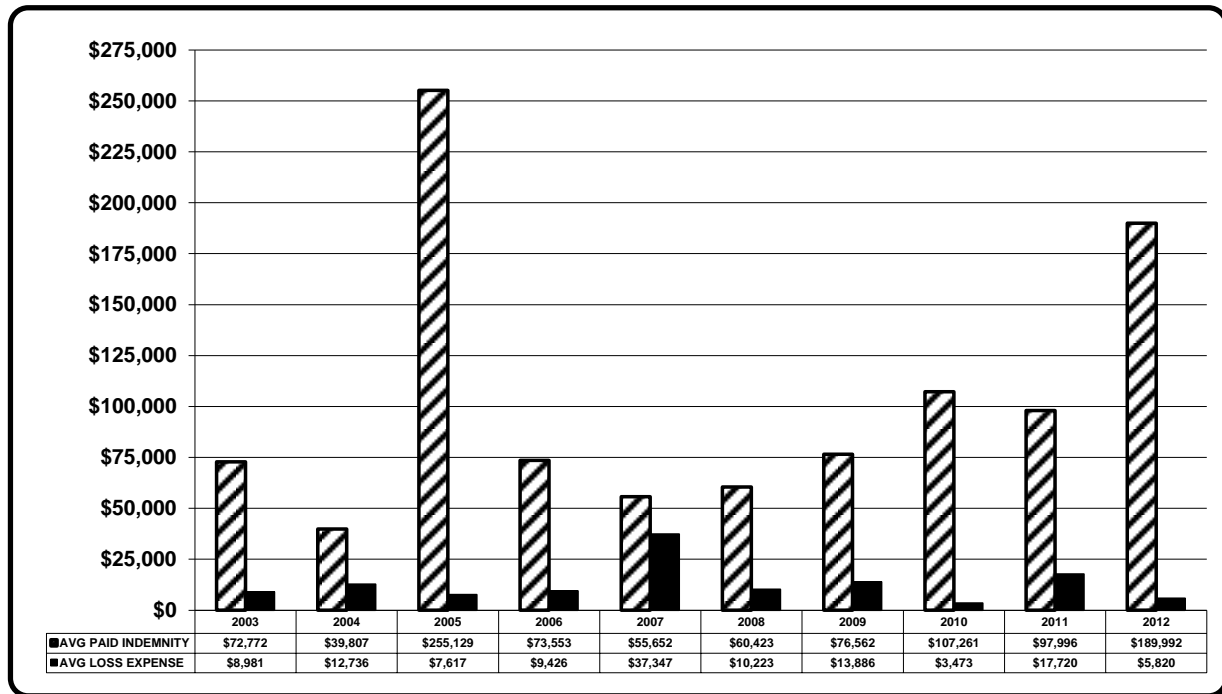


## CLAIM COUNT

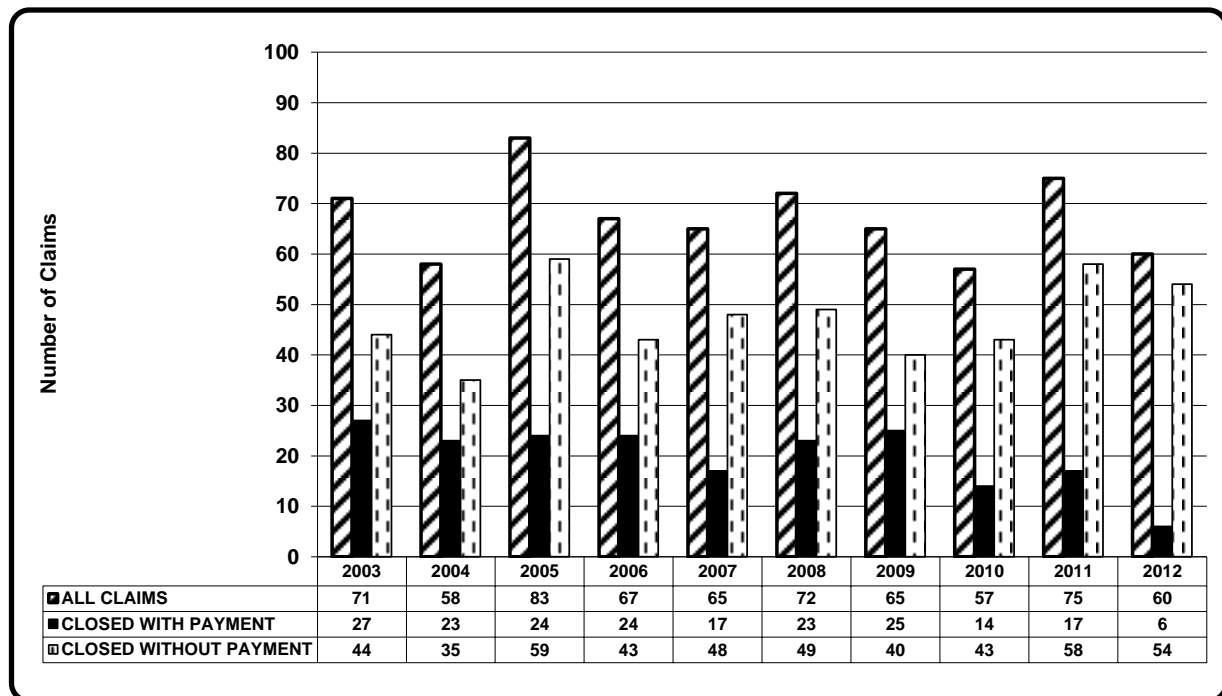


## COMMENCEMENT OF ACTION OR PROCEEDING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

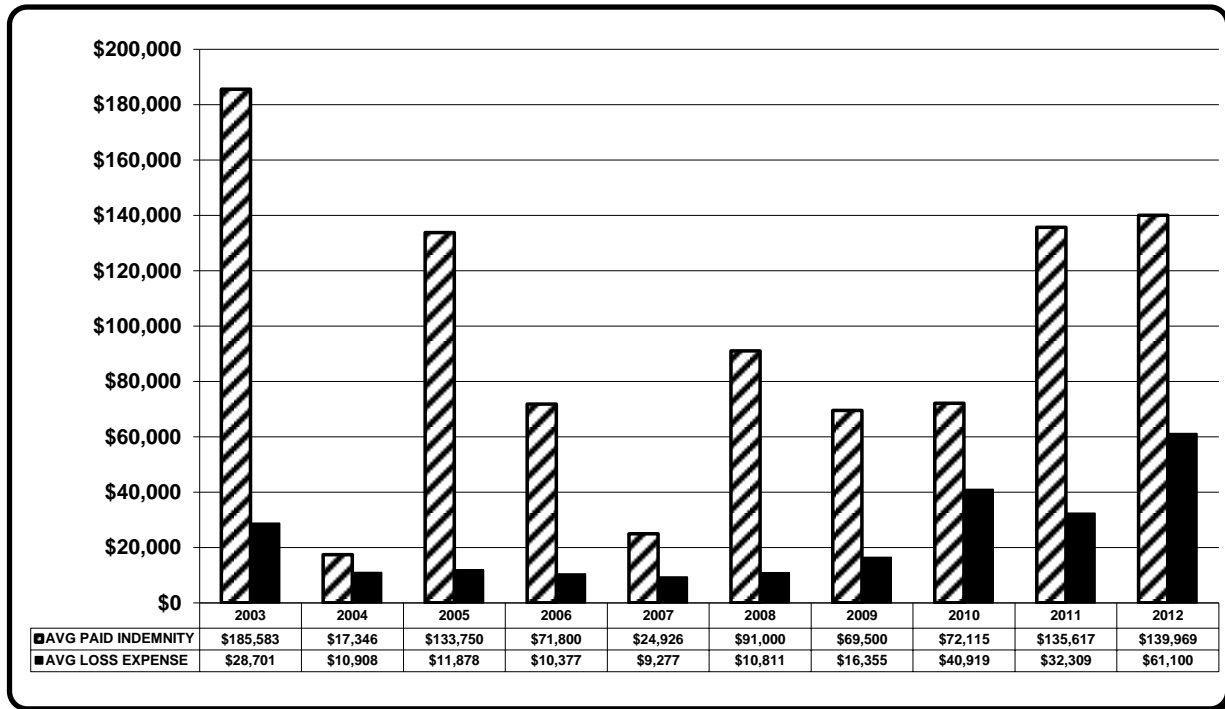


### CLAIM COUNT

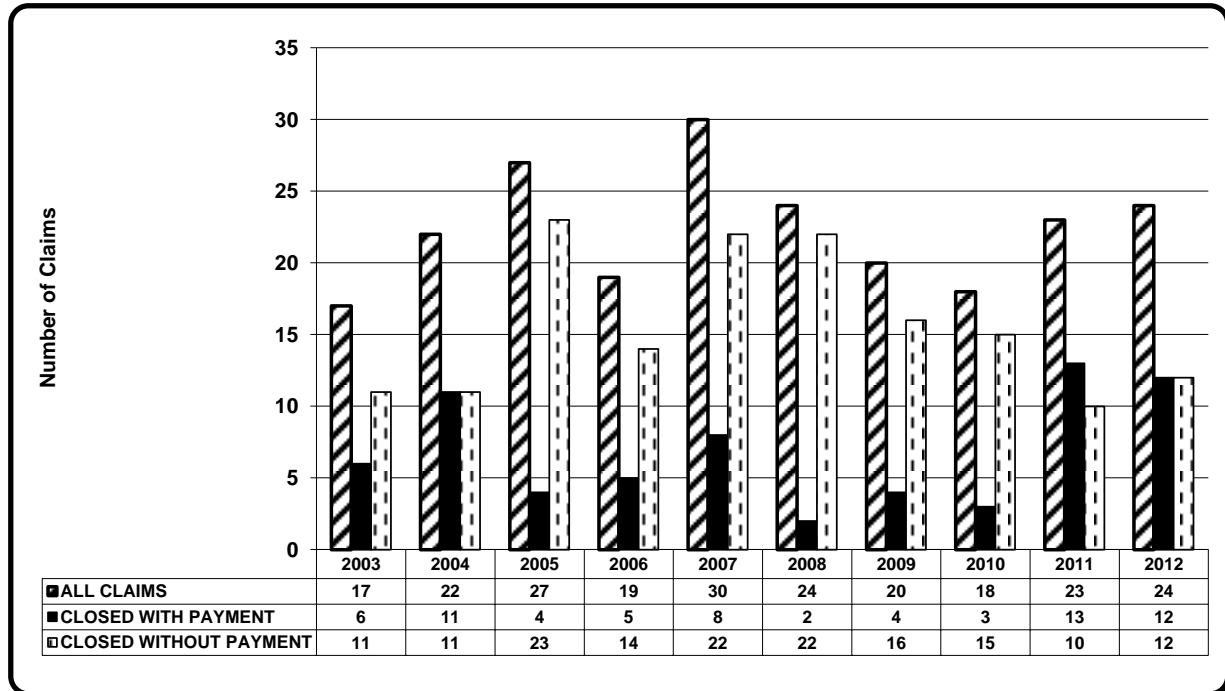


## PRE-TRIAL, PRE-HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

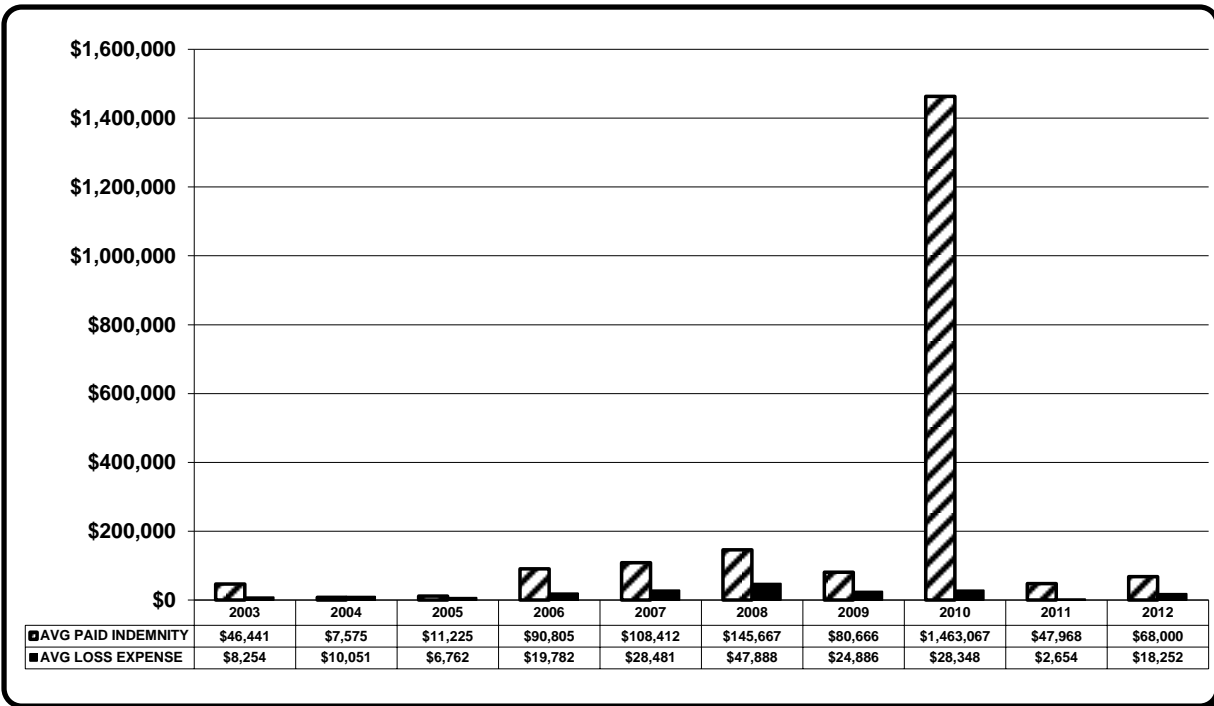


### CLAIM COUNT

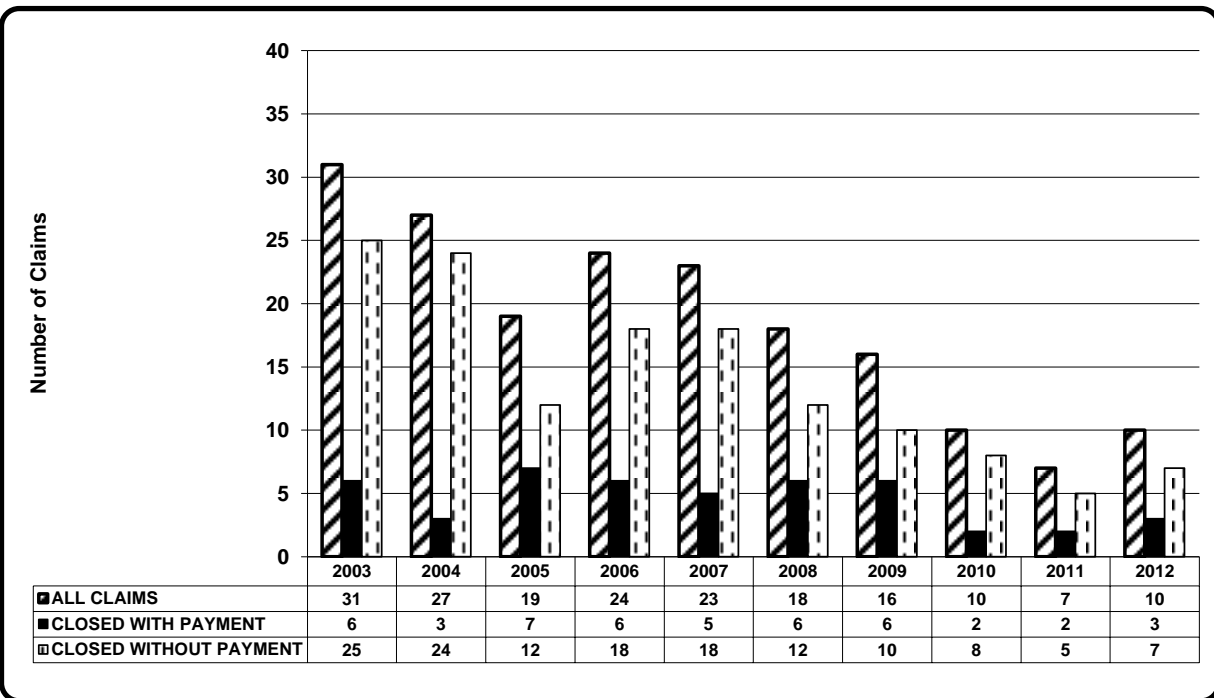


## SETTLEMENT & NEGOTIATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



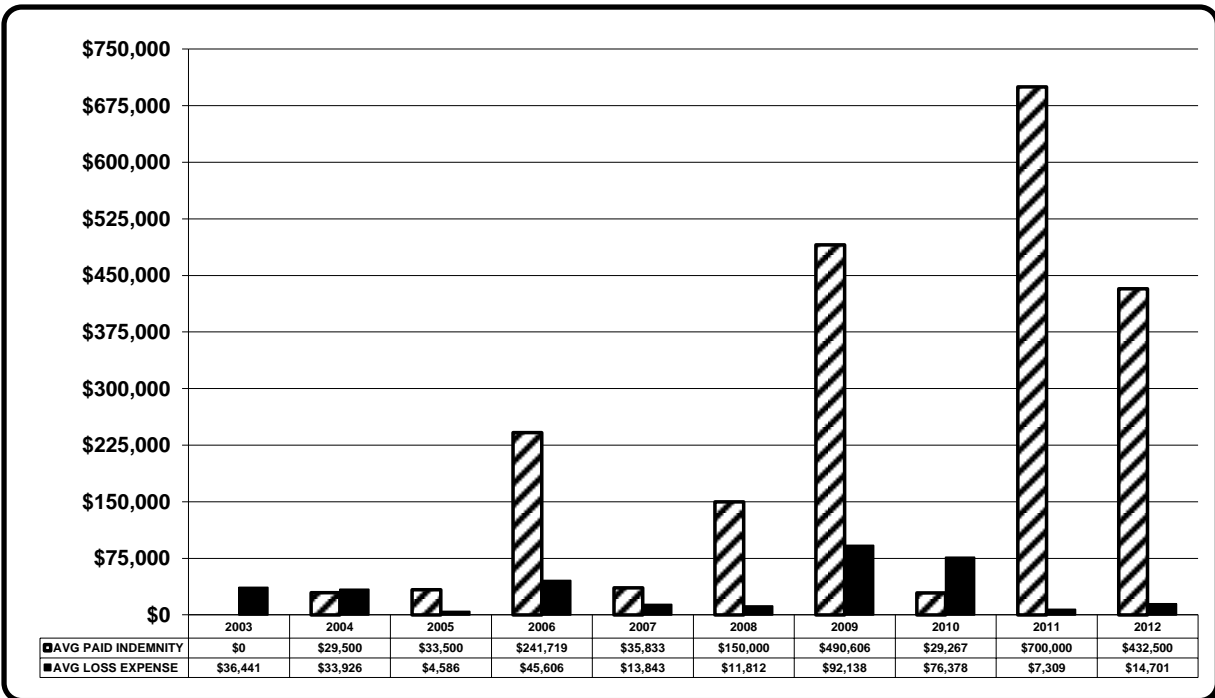
### CLAIM COUNT



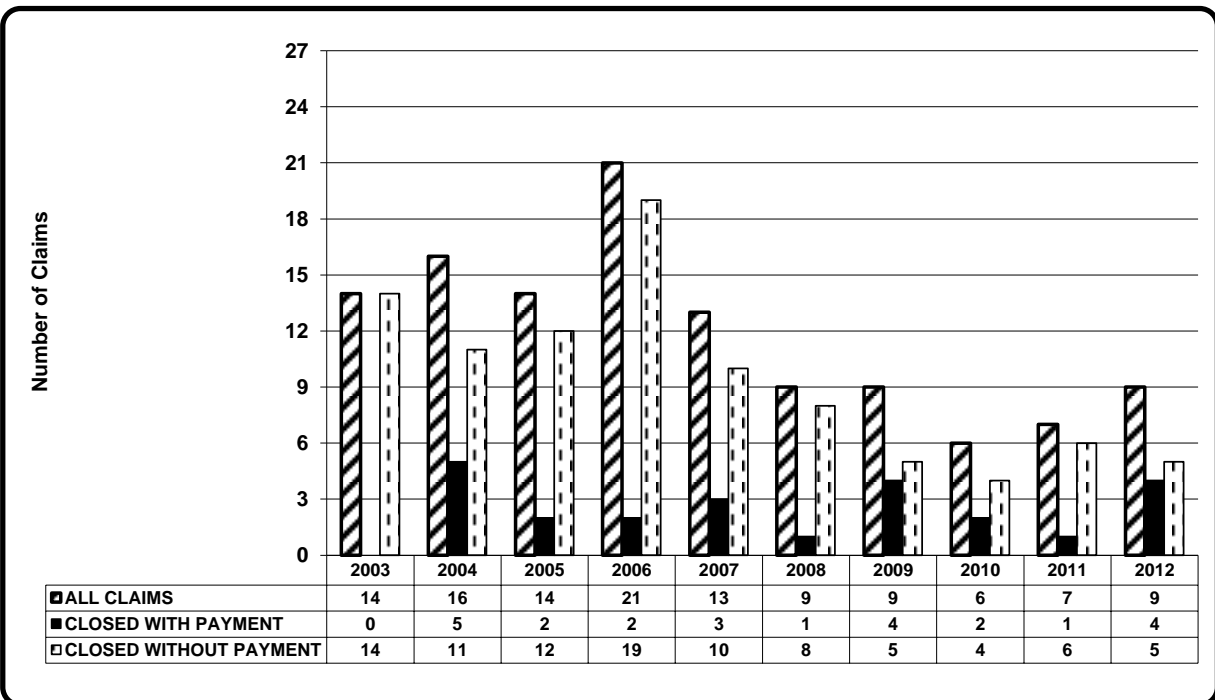


## TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

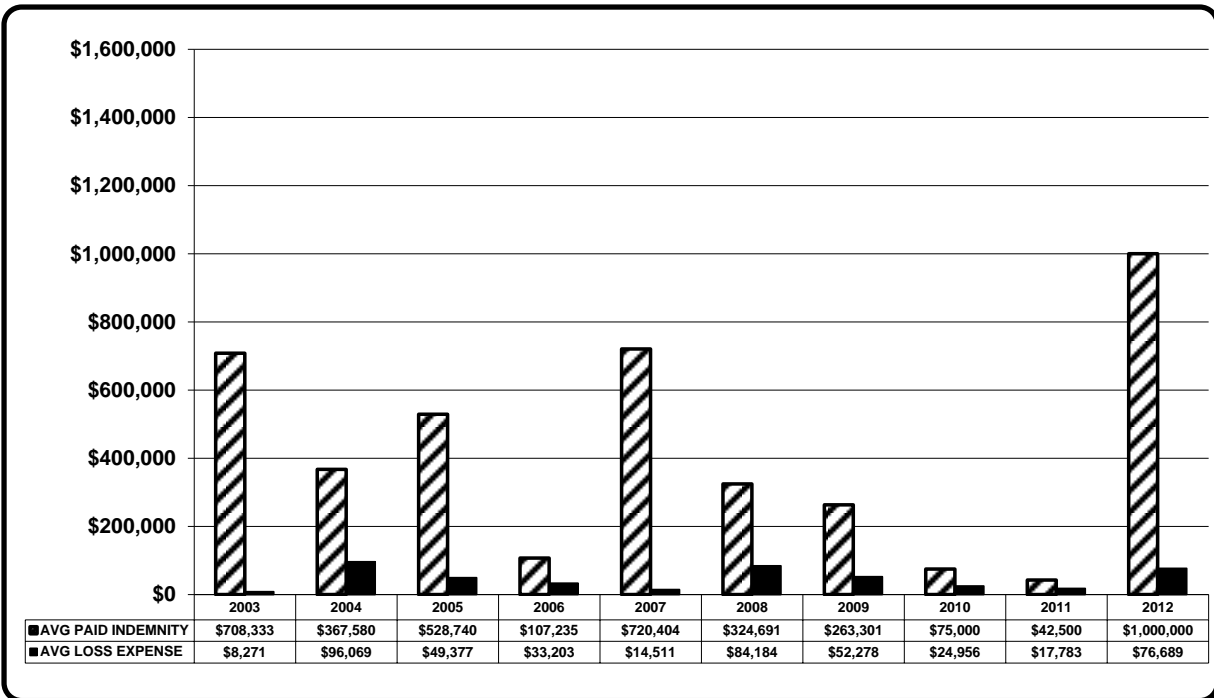


## CLAIM COUNT

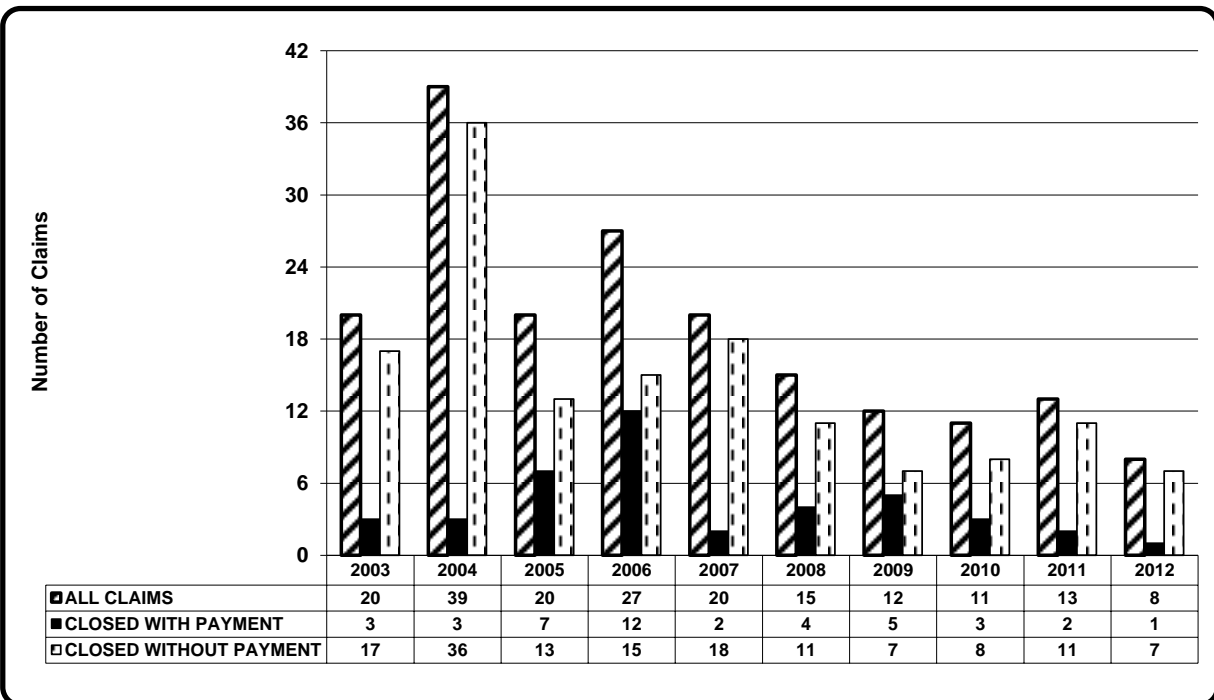


## CONSULTATION OR ADVICE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

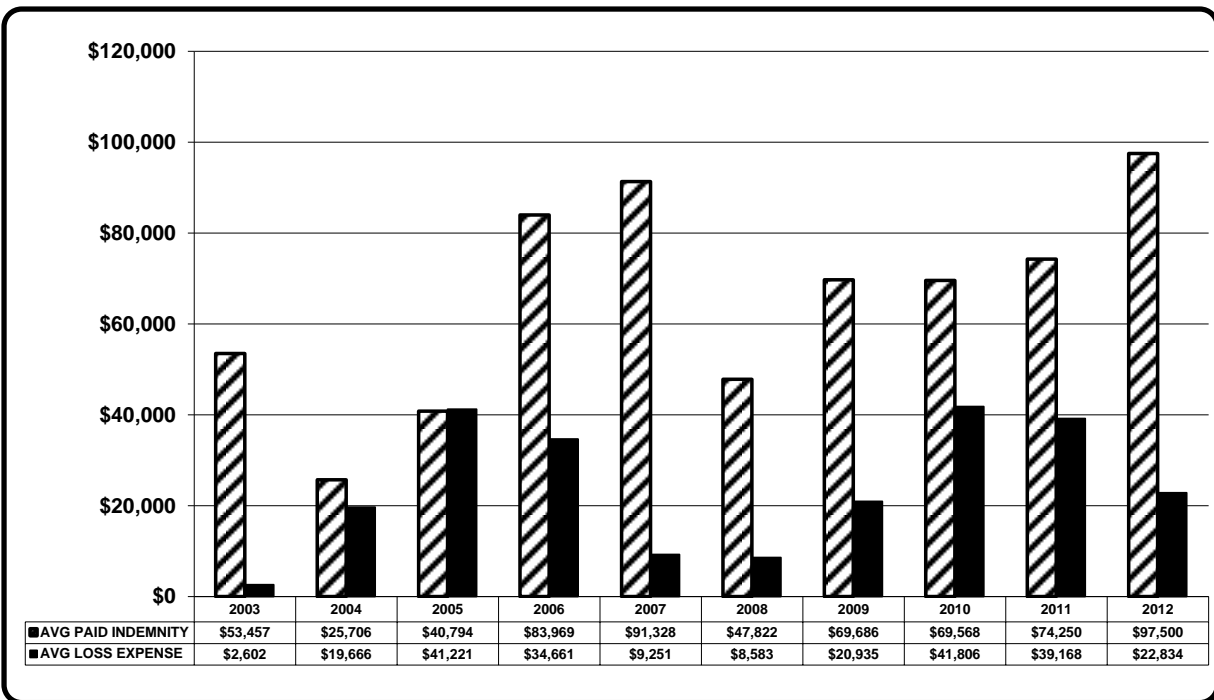


### CLAIM COUNT

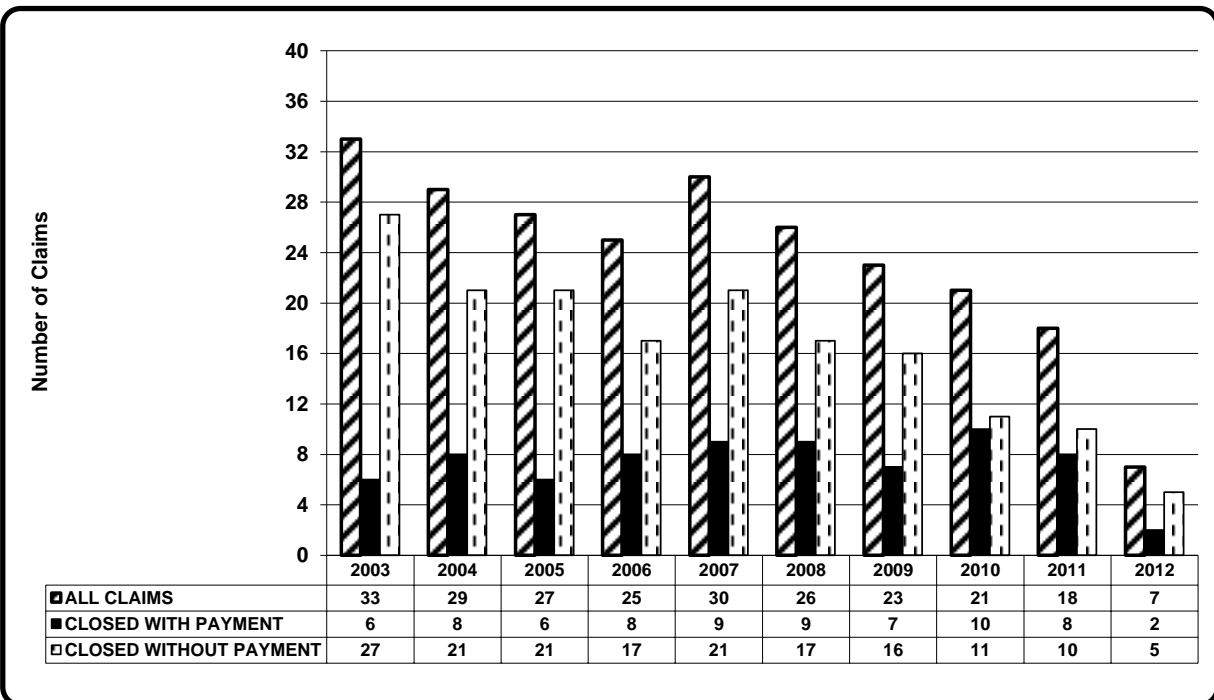


## PREPARATION, TRANSMITTAL OR FILING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

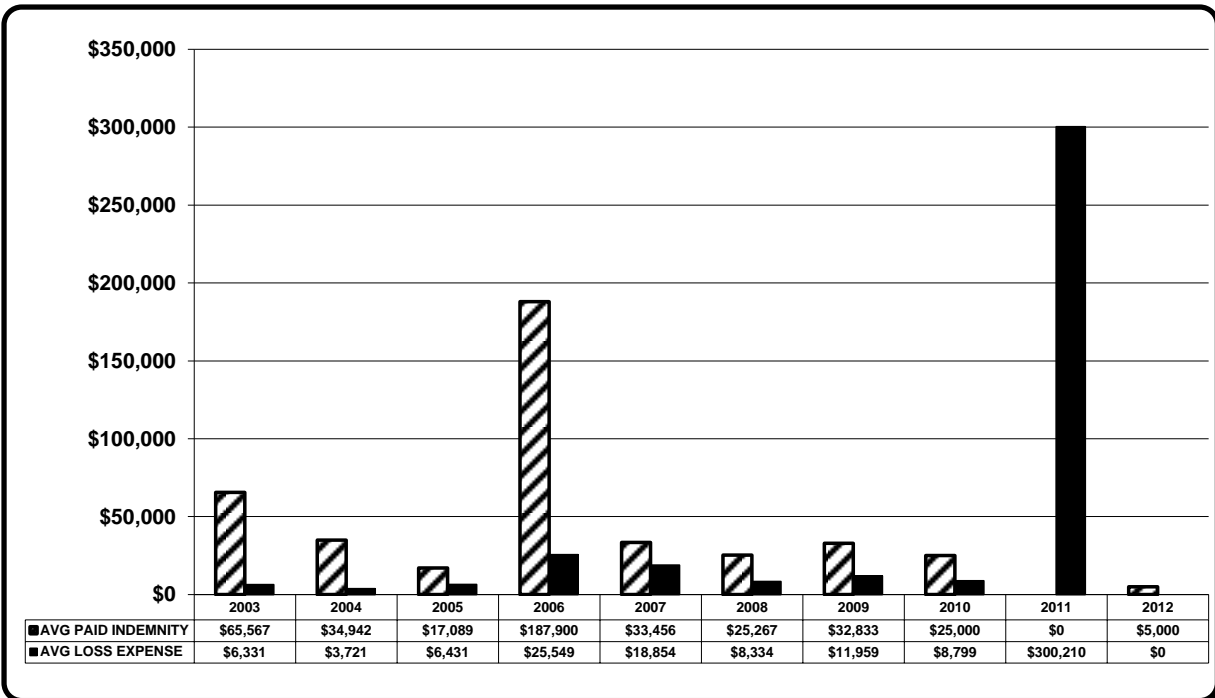


### CLAIM COUNT

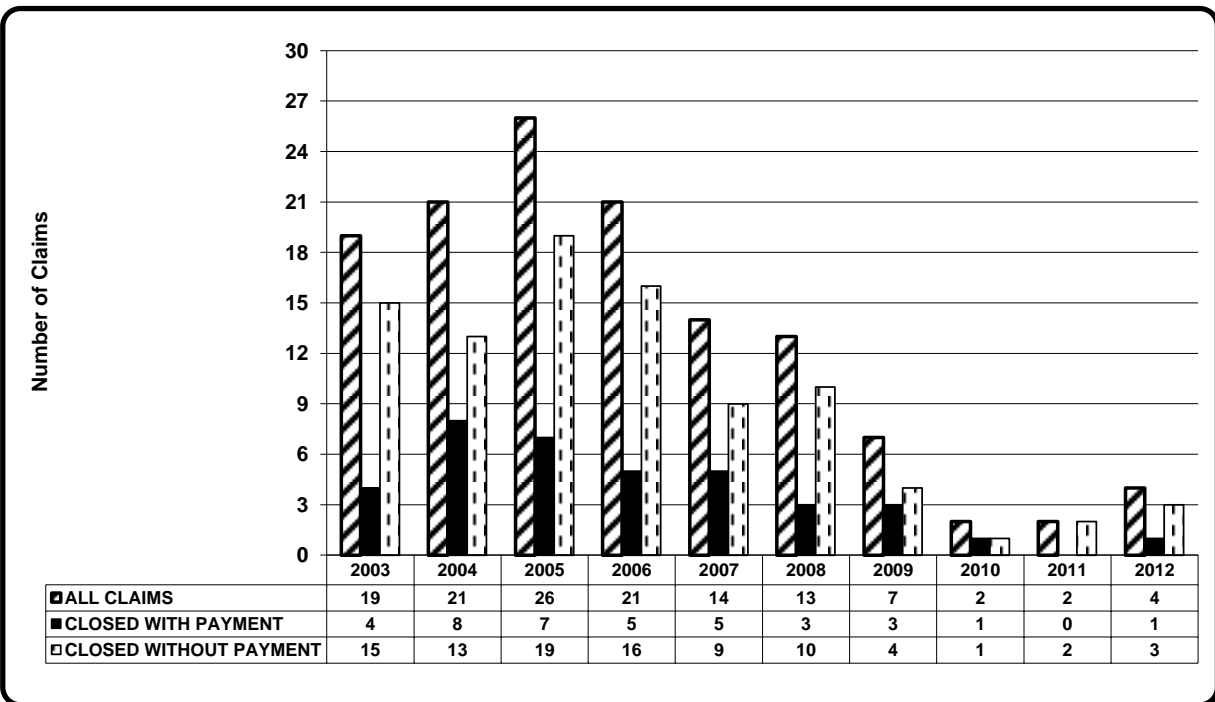


## INVESTIGATION, OTHER THAN LITIGATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

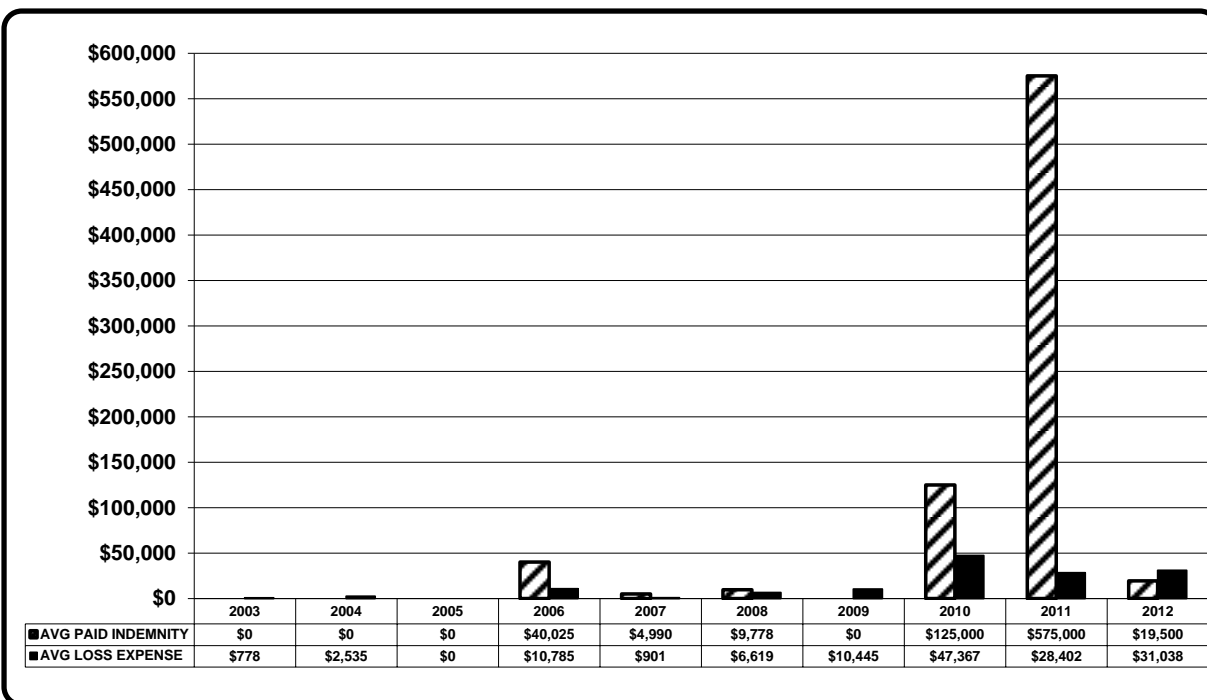


### CLAIM COUNT

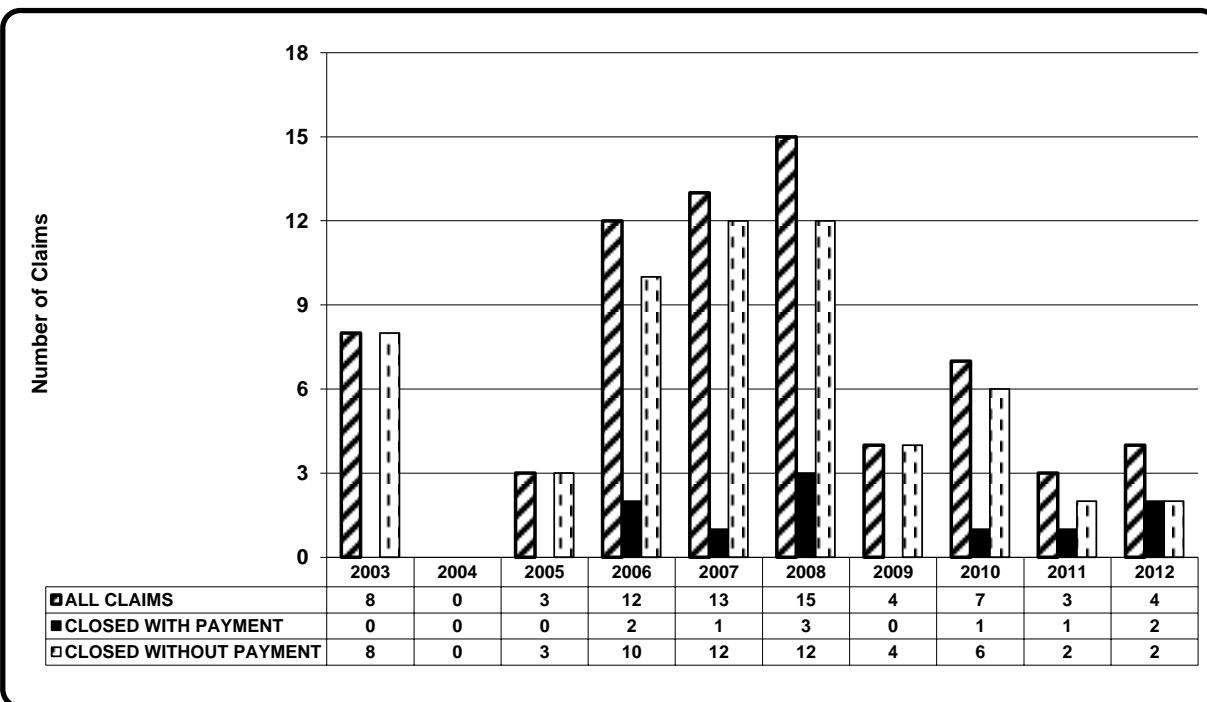


## POST TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

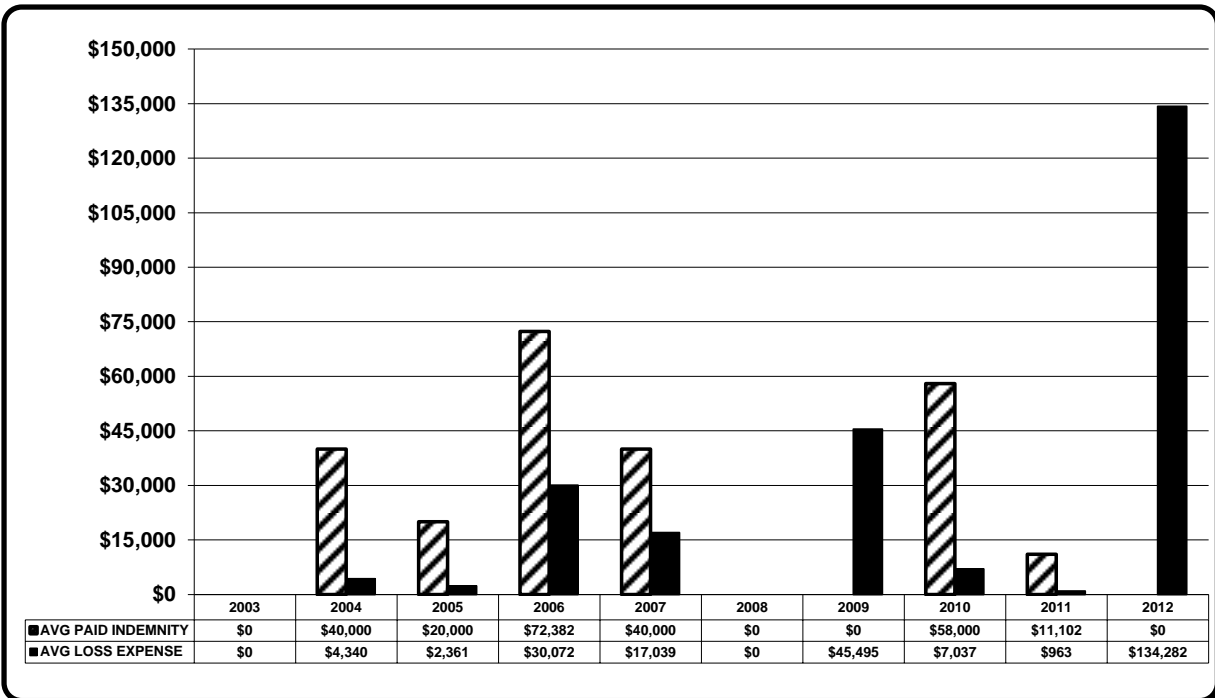


### CLAIM COUNT

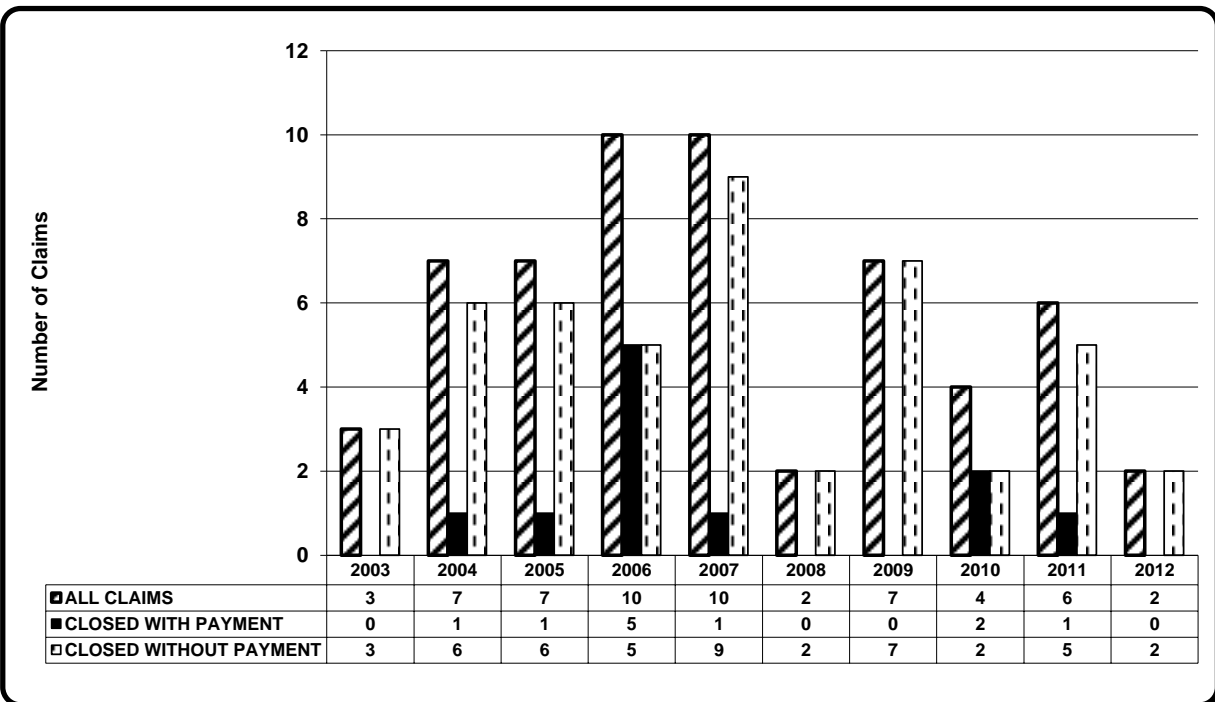


## APPEAL ACTIVITIES

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2012 SUMMARY  
BY  
ALLEGED ERRORS OR OMISSIONS**





# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2003-2012

ERROR OR OMISSION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OTHER	386	58	9.25%	\$74,429	\$4,316,895	6.26%	\$9,295
FAIL TO ASCERTAIN DEADLINE CORRECTLY	352	127	20.26%	\$103,424	\$13,134,807	19.06%	\$19,717
PLANNING OR STRATEGY ERROR	255	68	10.85%	\$235,377	\$16,005,630	23.23%	\$31,948
FAIL TO KNOW OR PROPERLY APPLY THE LAW	180	52	8.29%	\$150,241	\$7,812,510	11.34%	\$21,292
PROCRASTINATION OR LACK OF FOLLOW-UP	174	46	7.34%	\$182,199	\$8,381,144	12.16%	\$16,955
INADEQUATE INVESTIGATION	134	35	5.58%	\$82,934	\$2,902,687	4.21%	\$34,099
FAIL TO FOLLOW CLIENTS INSTRUCTIONS	114	22	3.51%	\$124,257	\$2,733,661	3.97%	\$18,764
FAILURE TO REACT TO CALENDAR	106	48	7.66%	\$52,713	\$2,530,215	3.67%	\$5,378
FAIL TO FILE DOCUMENTS WITH NO DEADLINE	90	25	3.99%	\$69,098	\$1,727,450	2.51%	\$18,192
MALICIOUS PROSECUTION OR ABUSE OF PROCESS	87	15	2.39%	\$19,233	\$288,500	0.42%	\$15,984
FRAUD	81	14	2.23%	\$40,014	\$560,193	0.81%	\$17,092
FAIL TO OBTAIN CLIENTS CONSENT	80	12	1.91%	\$60,970	\$731,634	1.06%	\$52,946
FAILURE TO CALENDAR PROPERLY	79	41	6.54%	\$62,249	\$2,552,197	3.70%	\$10,656
CONFLICT OF INTEREST	73	16	2.55%	\$149,356	\$2,389,699	3.47%	\$47,406
CLERICAL ERROR	53	17	2.71%	\$22,952	\$390,178	0.57%	\$8,492
VIOLATION OF CIVIL RIGHTS	40	4	0.64%	\$57,500	\$230,000	0.33%	\$8,427
IMPROPER WITHDRAWAL FROM REPRESENTATION	31	8	1.28%	\$41,026	\$328,210	0.48%	\$7,875
ERROR IN MATHEMATICAL CALCULATION	29	9	1.44%	\$46,767	\$420,903	0.61%	\$5,890
ERROR IN PUBLIC RECORD SEARCH	22	5	0.80%	\$78,521	\$392,606	0.57%	\$14,478
LIBEL OR SLANDER	18	0	0.00%	N/A	\$0	0.00%	\$3,888
FAIL TO ANTICIPATE TAX CONSEQUENCES	14	3	0.48%	\$351,667	\$1,055,000	1.53%	\$10,655
LOST FILE, DOCUMENT OR EVIDENCE	8	2	0.32%	\$12,500	\$25,000	0.04%	\$12,680
NOT SPECIFIED	1	0	0.00%	N/A	\$0	0.00%	\$0
TOTAL	2,407	627	100.00%	\$109,903	\$68,909,119	100.00%	\$19,746

# LEGAL MALPRACTICE INSURANCE

## INDEMNITY ANALYSIS

### CLAIMS CLOSED IN 2012

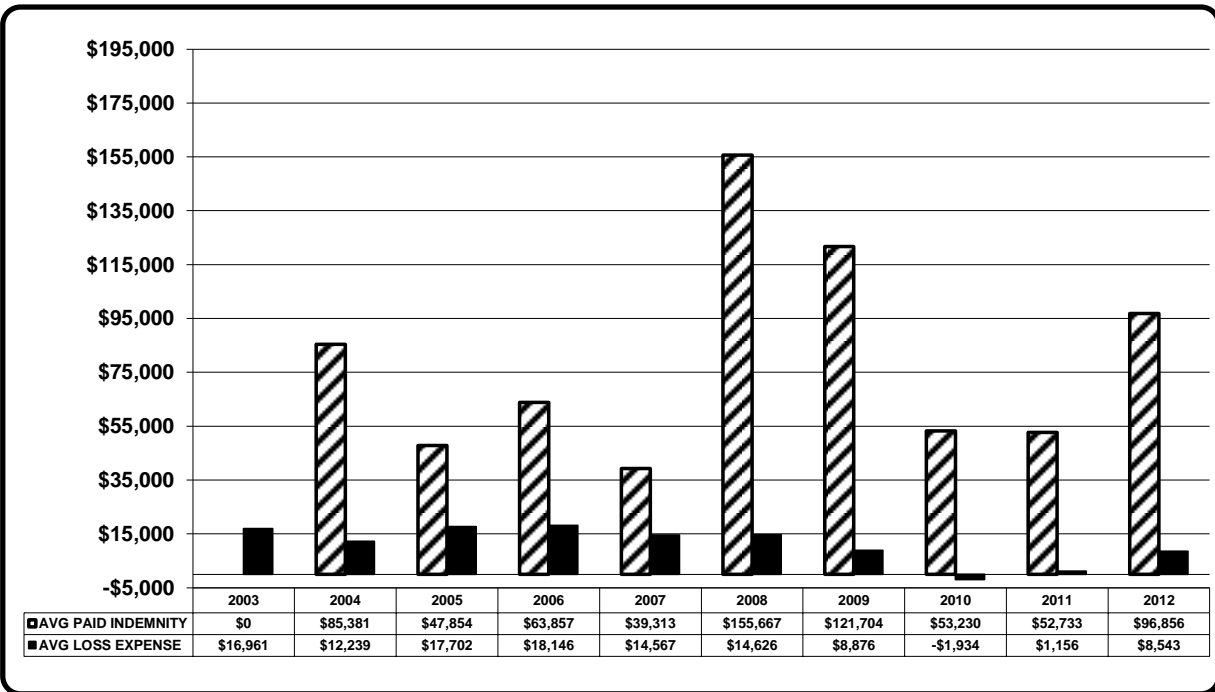
ERROR OR OMISSION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OTHER	56	4	8.16%	\$96,856	\$387,425	4.18%	\$8,543
FAIL TO ASCERTAIN DEADLINE CORRECTLY	32	7	14.29%	\$461,315	\$3,229,204	34.83%	\$12,018
PLANNING OR STRATEGY ERROR	28	8	16.33%	\$88,972	\$711,779	7.68%	\$17,321
INADEQUATE INVESTIGATION	18	6	12.24%	\$94,045	\$564,268	6.09%	\$86,762
FAIL TO KNOW OR PROPERLY APPLY THE LAW	16	5	10.20%	\$155,900	\$779,500	8.41%	\$31,116
PROCRASTINATION OR LACK OF FOLLOW-UP	13	2	4.08%	\$545,063	\$1,090,125	11.76%	\$12,298
MALICIOUS PROSECUTION OR ABUSE OF PROCESS	9	3	6.12%	\$9,167	\$27,500	0.30%	\$2,937
FAIL TO FOLLOW CLIENTS INSTRUCTIONS	8	2	4.08%	\$587,500	\$1,175,000	12.67%	\$72,096
FRAUD	7	2	4.08%	\$37,500	\$75,000	0.81%	\$8,098
CONFLICT OF INTEREST	6	1	2.04%	\$41,250	\$41,250	0.44%	\$215,739
FAIL TO FILE DOCUMENTS WITH NO DEADLINE	5	0	0.00%	N/A	\$0	0.00%	\$53,713
FAIL TO OBTAIN CLIENTS CONSENT	5	2	4.08%	\$30,000	\$60,000	0.65%	\$4,603
FAILURE TO CALENDAR PROPERLY	5	3	6.12%	\$19,233	\$57,700	0.62%	\$1,764
FAILURE TO REACT TO CALENDAR	4	1	2.04%	\$30,000	\$30,000	0.32%	\$0
VIOLATION OF CIVIL RIGHTS	4	0	0.00%	N/A	\$0	0.00%	\$27,484
FAIL TO ANTICIPATE TAX CONSEQUENCES	3	1	2.04%	\$1,000,000	\$1,000,000	10.79%	\$45,600
CLERICAL ERROR	2	1	2.04%	\$5,000	\$5,000	0.05%	\$0
IMPROPER WITHDRAWAL FROM REPRESENTATION	2	1	2.04%	\$37,500	\$37,500	0.40%	\$3,295
LIBEL OR SLANDER	2	0	0.00%	N/A	\$0	0.00%	\$0
ERROR IN PUBLIC RECORD SEARCH	1	0	0.00%	N/A	\$0	0.00%	\$0
TOTAL	226	49	100.00%	\$189,209	\$9,271,251	100.00%	\$26,883

**TRENDS  
OF THE TOP TEN  
ERRORS OR OMISSIONS  
OF 2012**

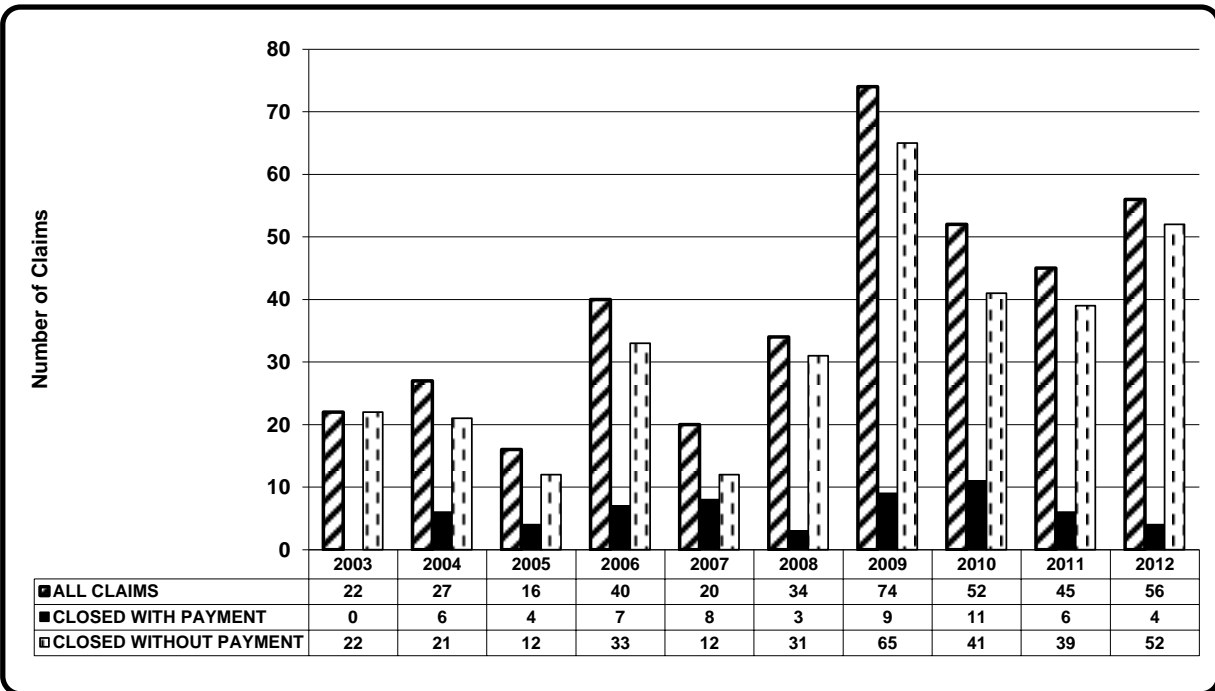


## OTHER

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

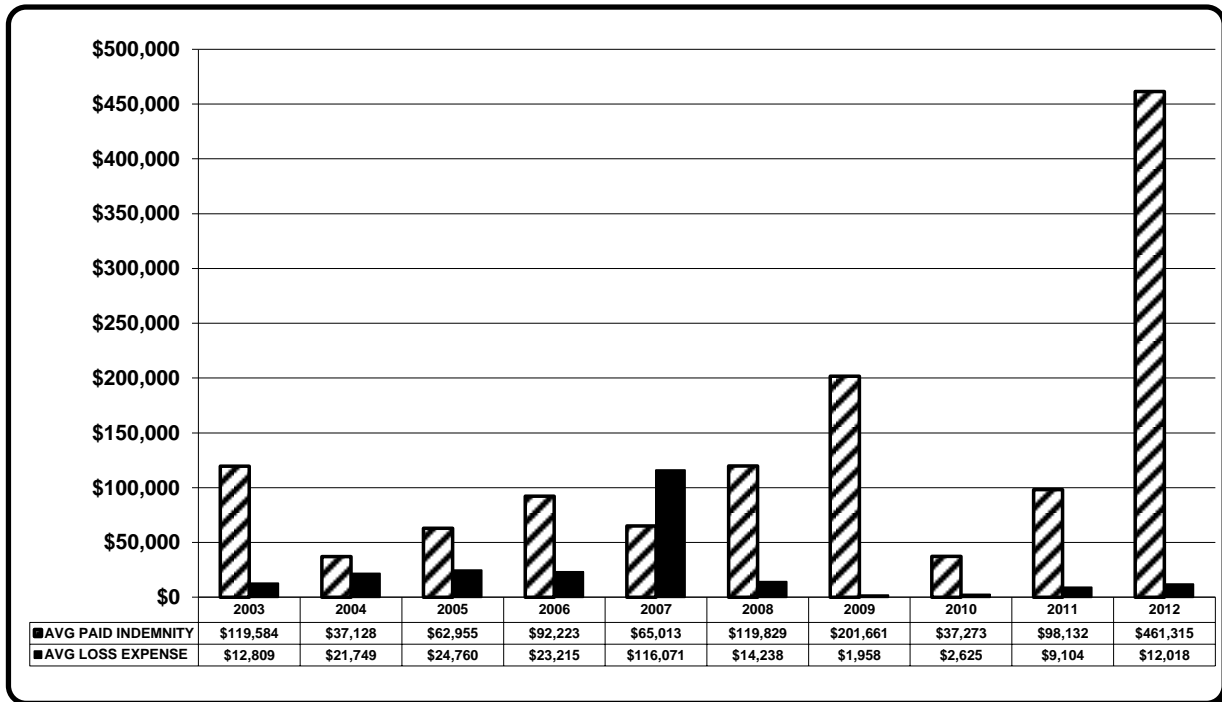


## CLAIM COUNT

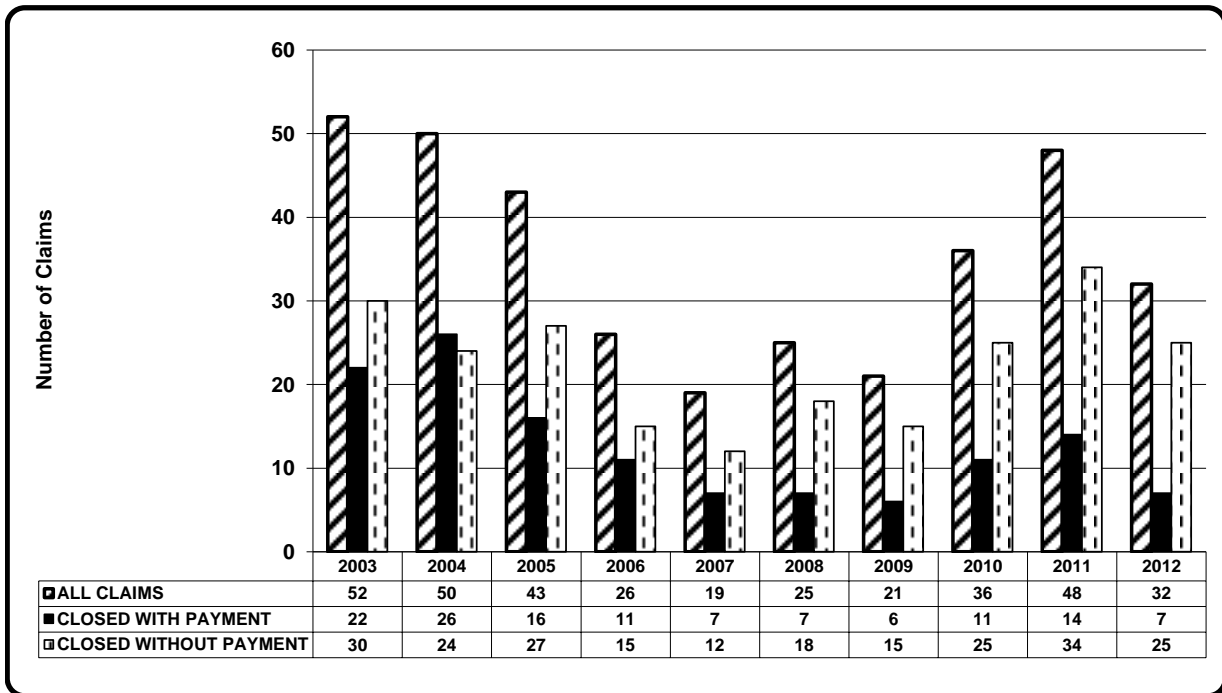


## FAILURE TO ASCERTAIN DEADLINE CORRECTLY

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

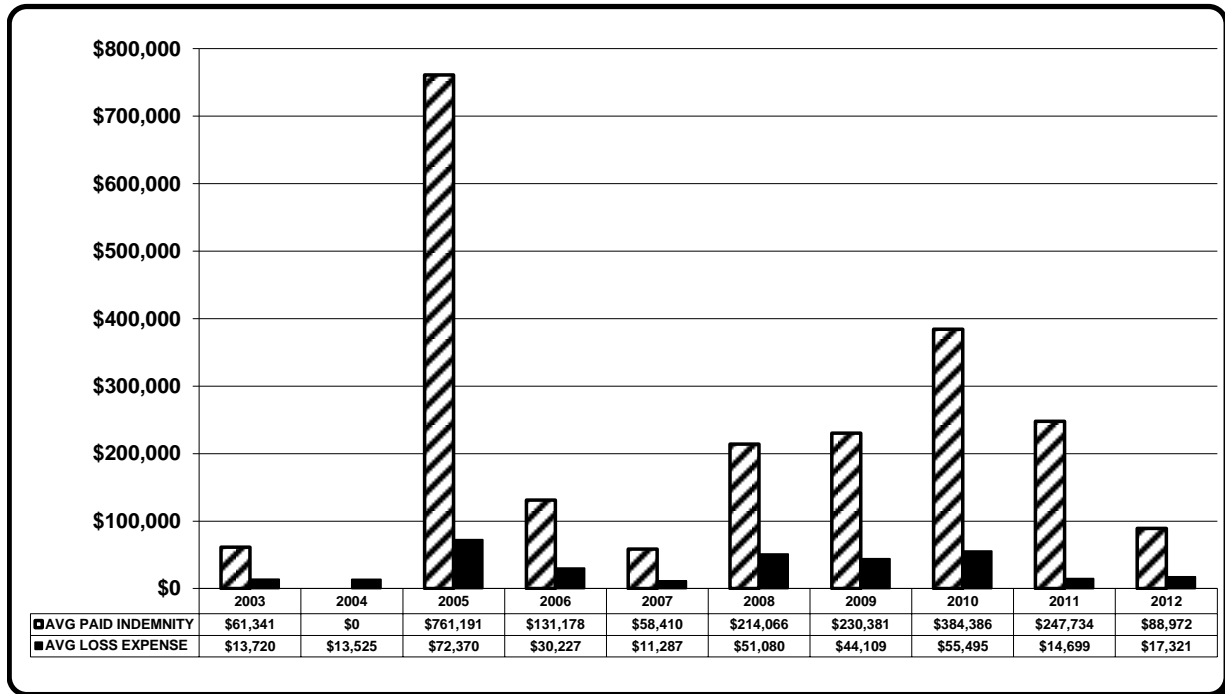


### CLAIM COUNT

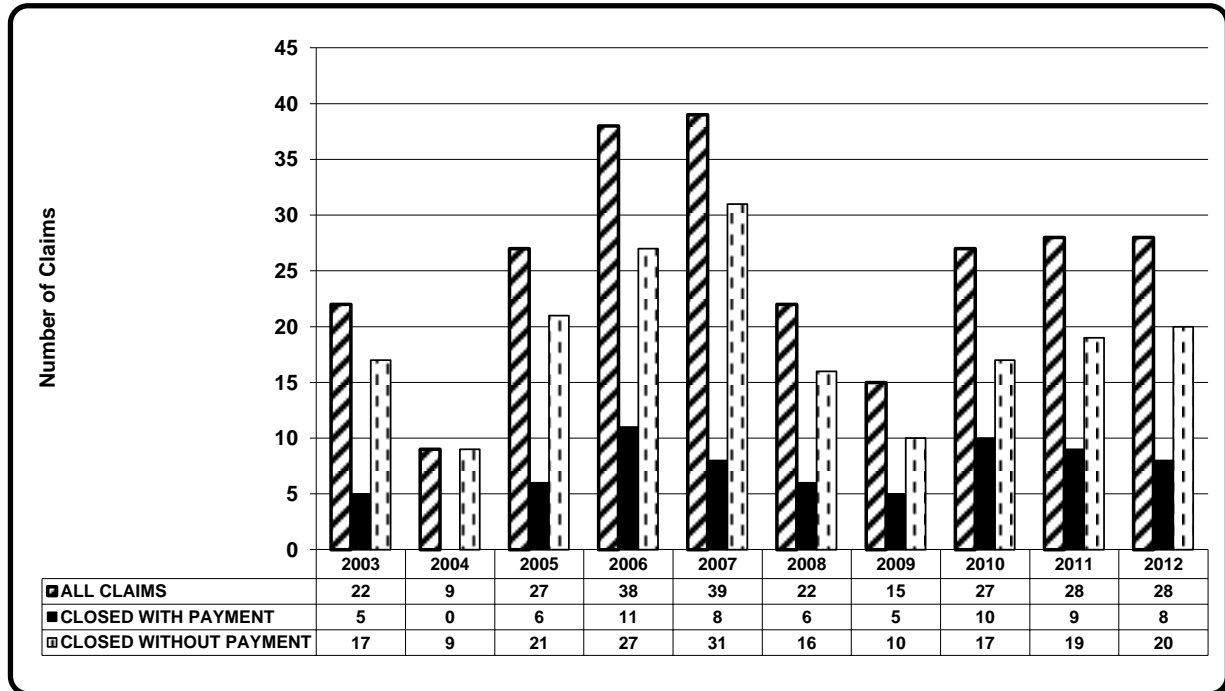


## PLANNING OR STRATEGY ERROR

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

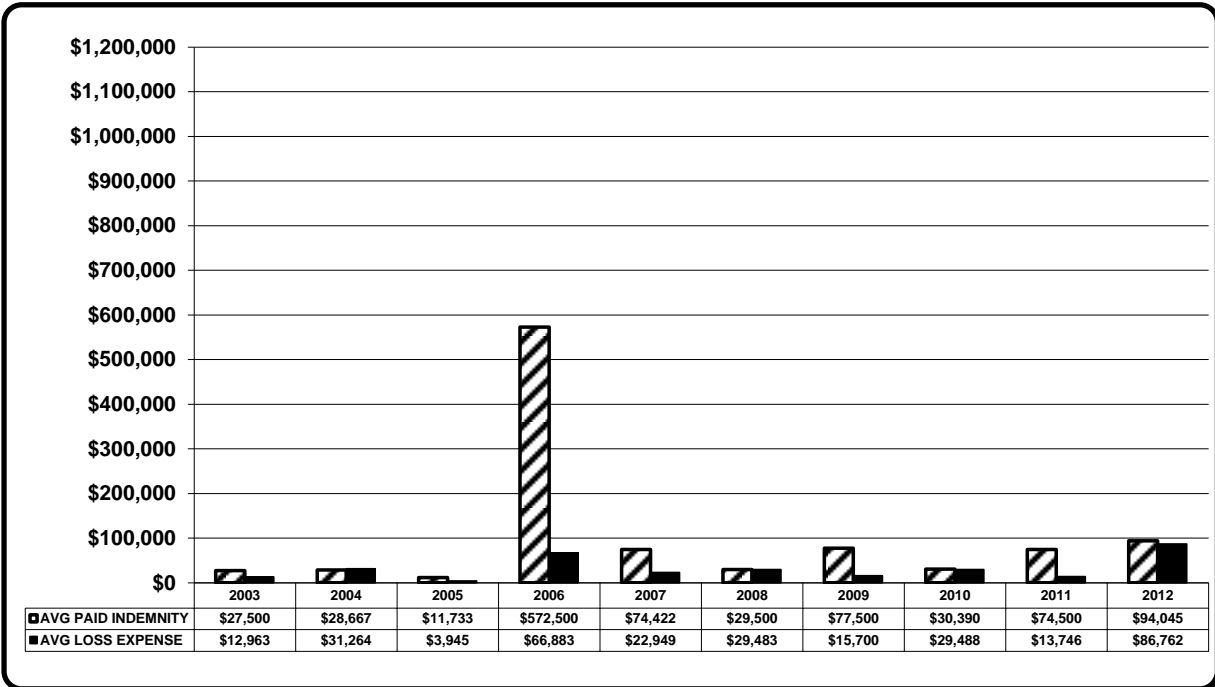


### CLAIM COUNT

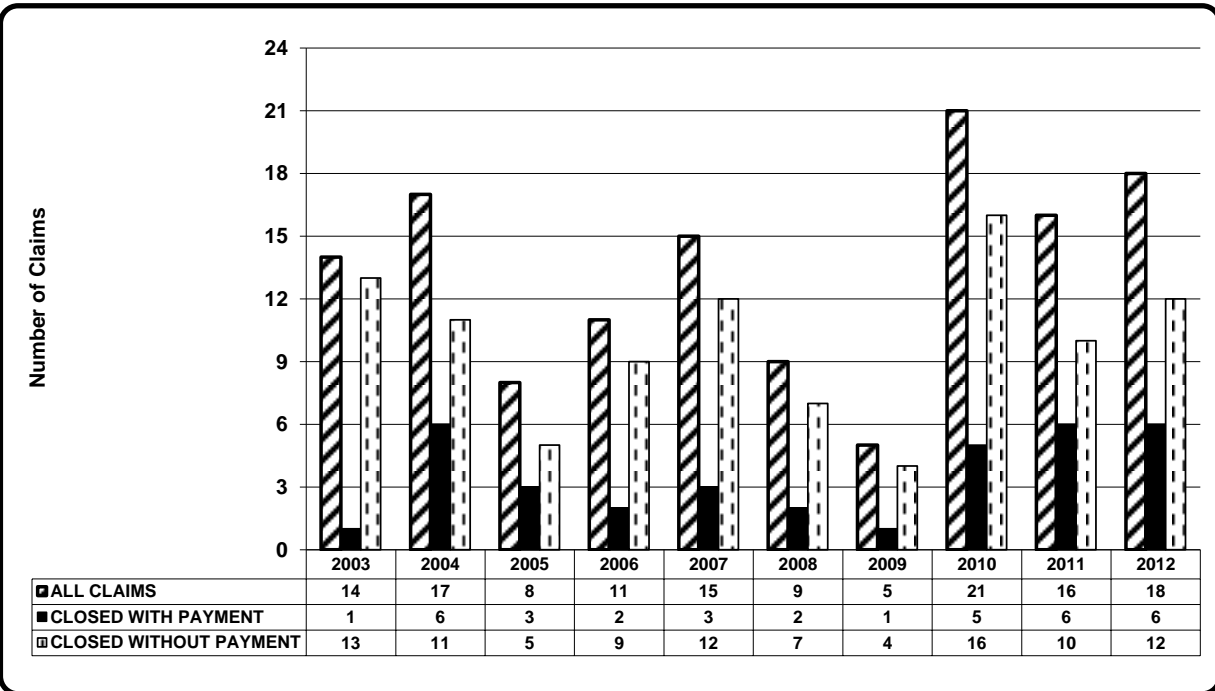


## INADEQUATE INVESTIGATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



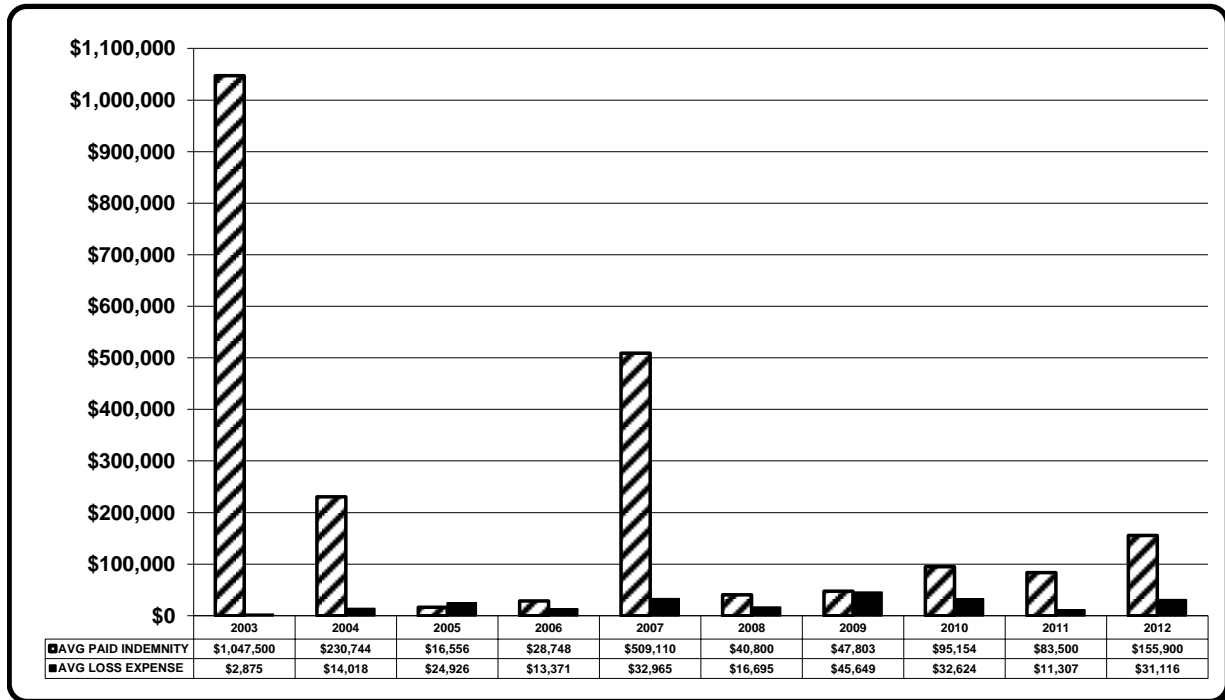
### CLAIM COUNT



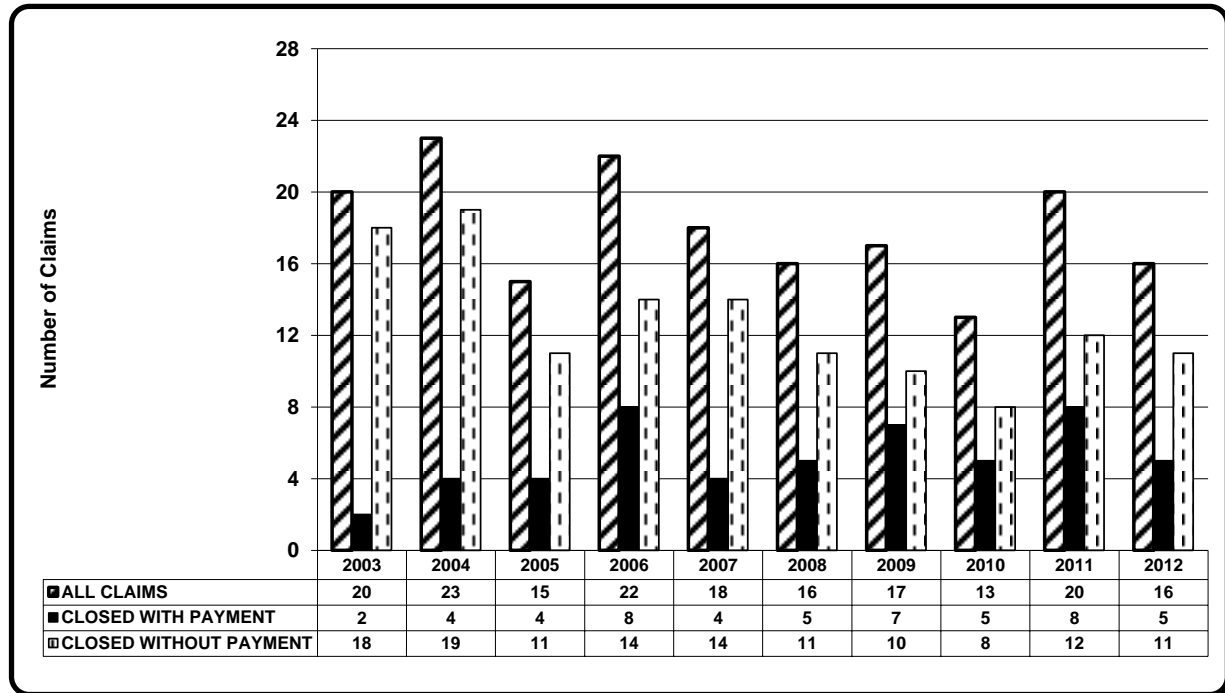


## FAILURE TO KNOW OR PROPERLY APPLY THE LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

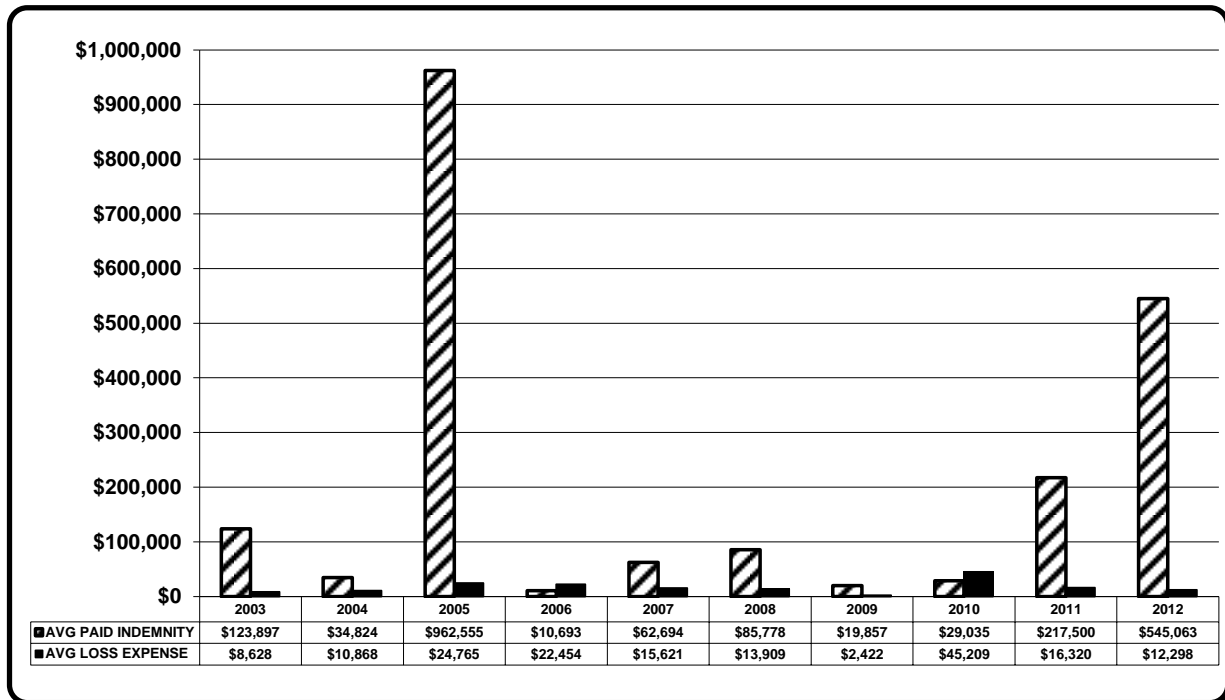


### CLAIM COUNT

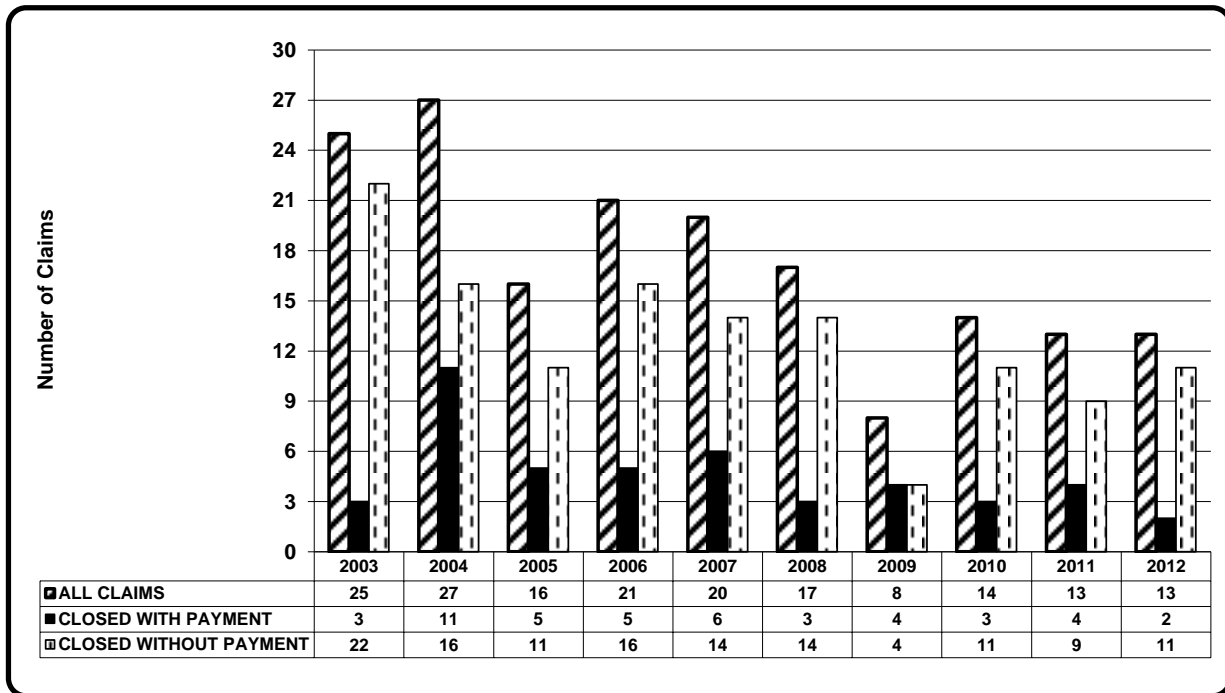


## PROCRASTINATION OR LACK OF FOLLOW-UP

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

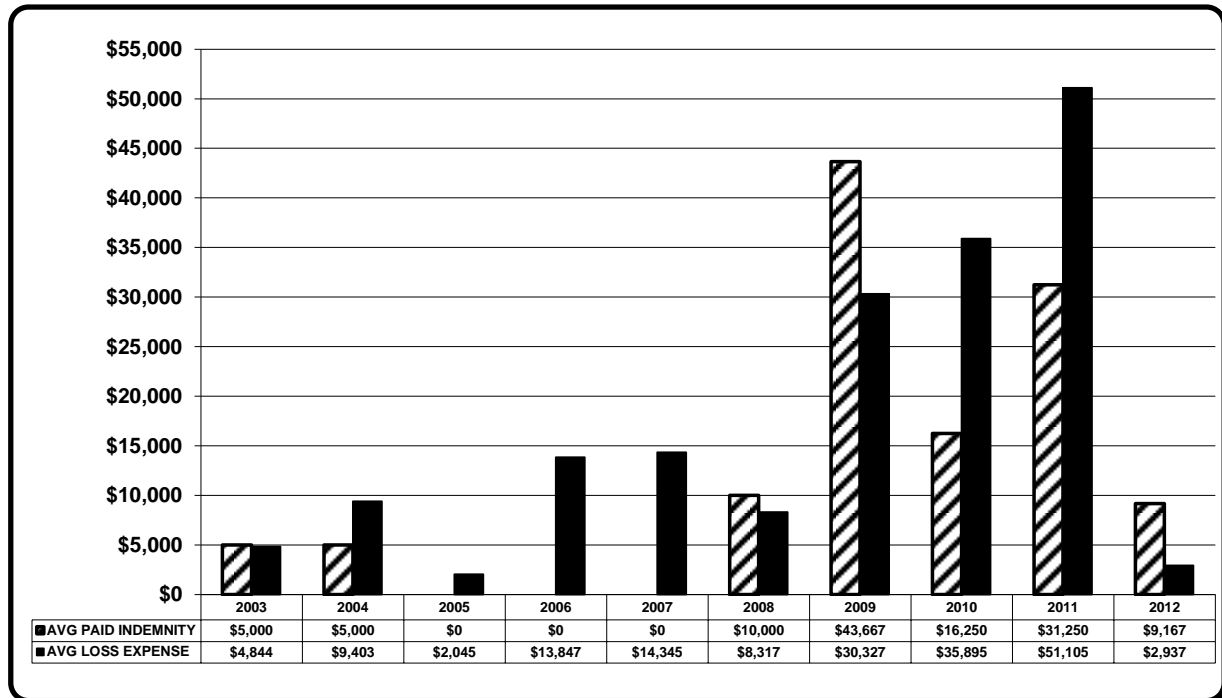


### CLAIM COUNT

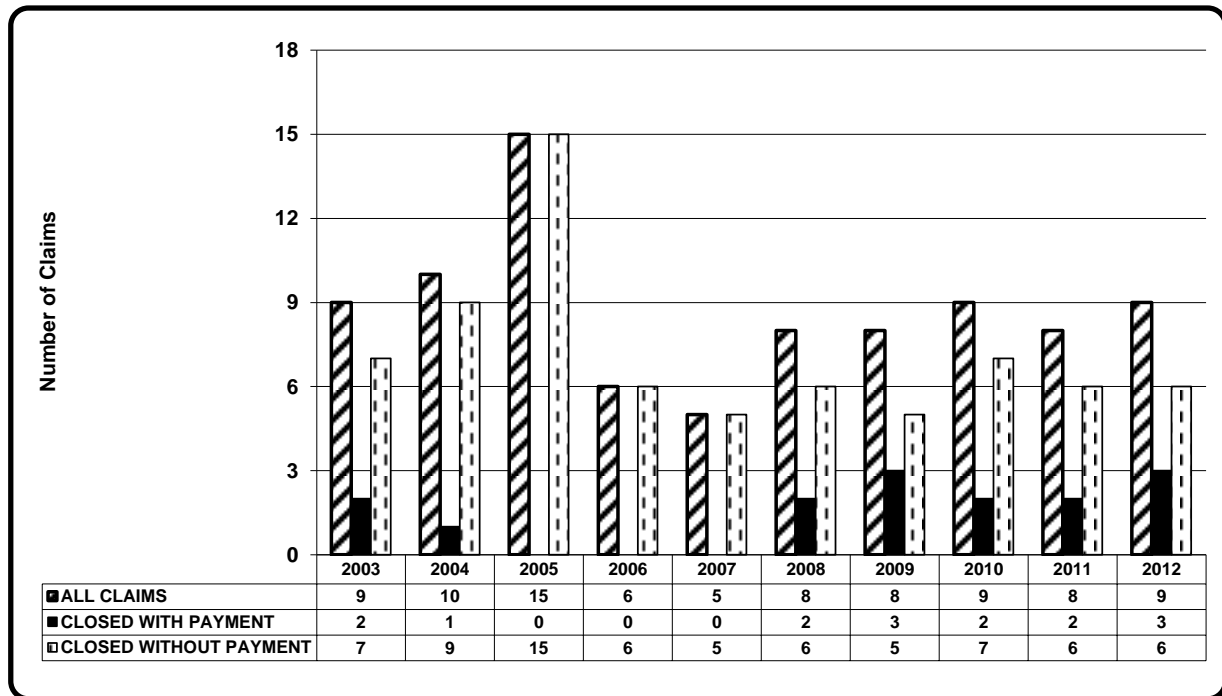


## MALICIOUS PROSECUTION OR ABUSE OF PROCESS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

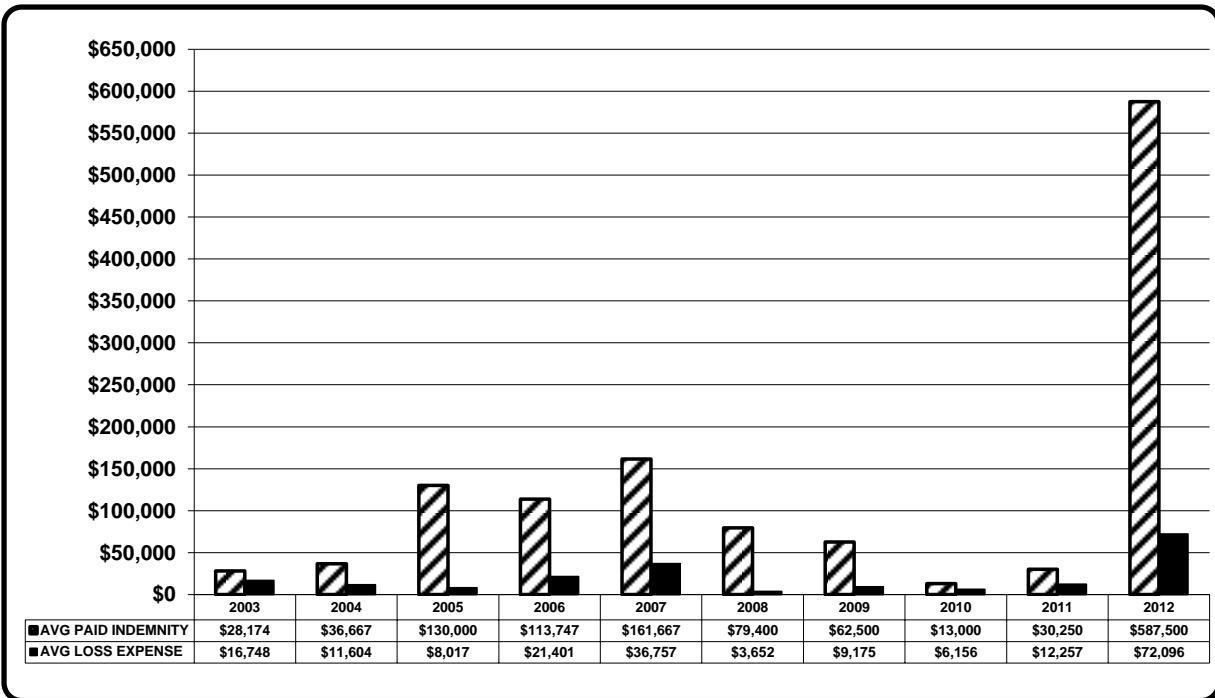


### CLAIM COUNT

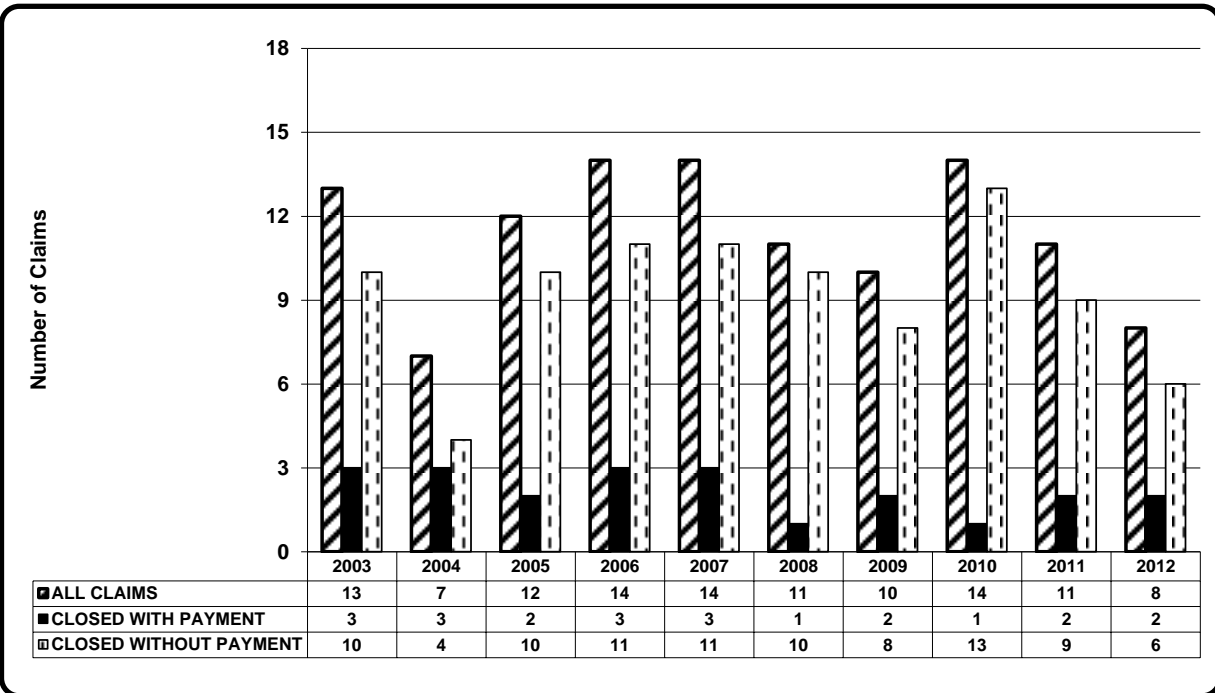


## FAILURE TO FOLLOW CLIENTS INSTRUCTIONS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

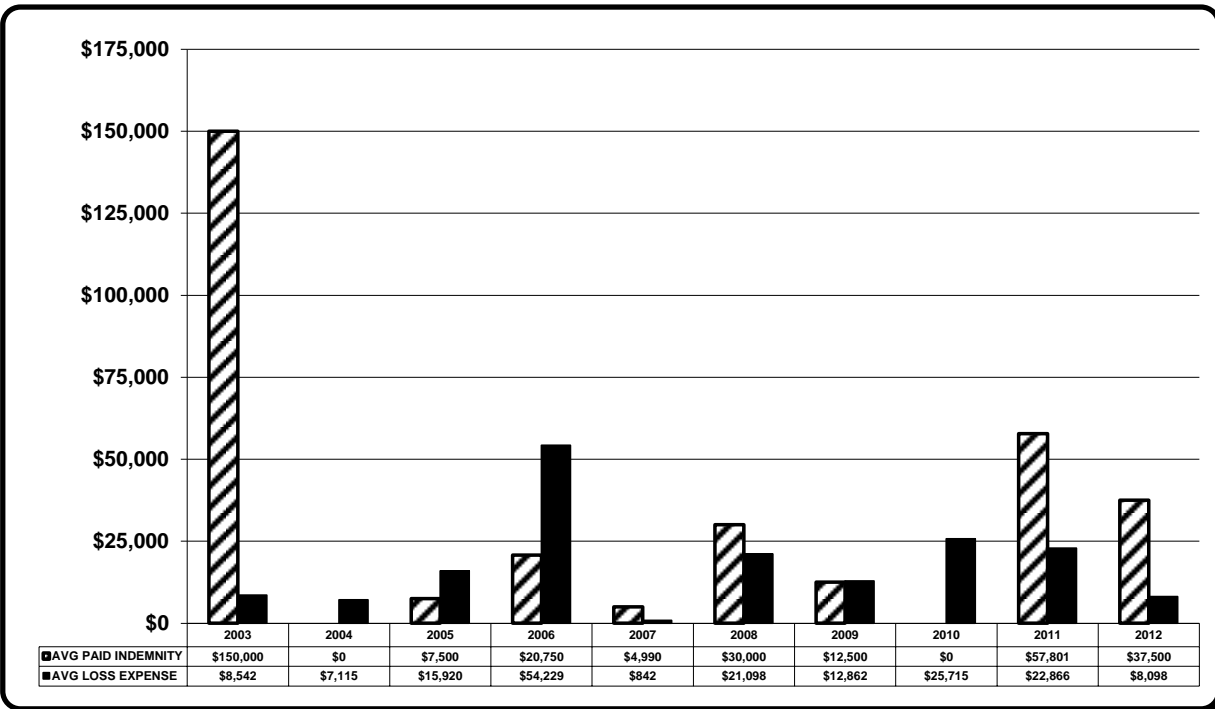


### CLAIM COUNT

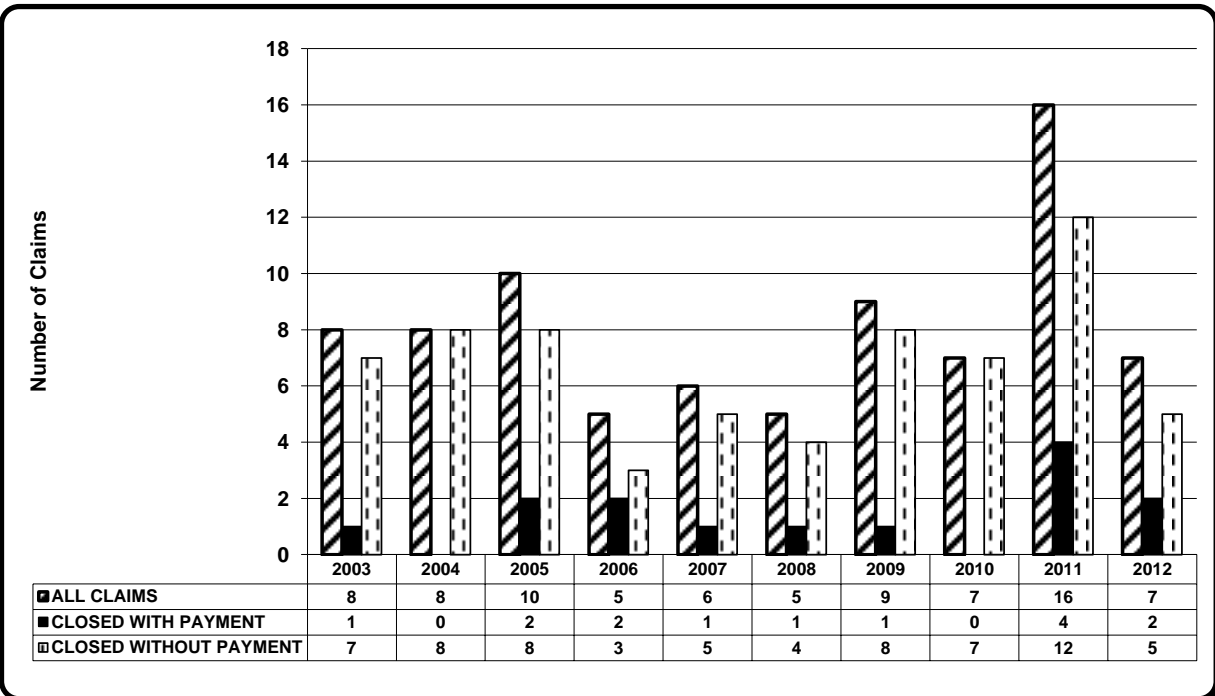


## FRAUD

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

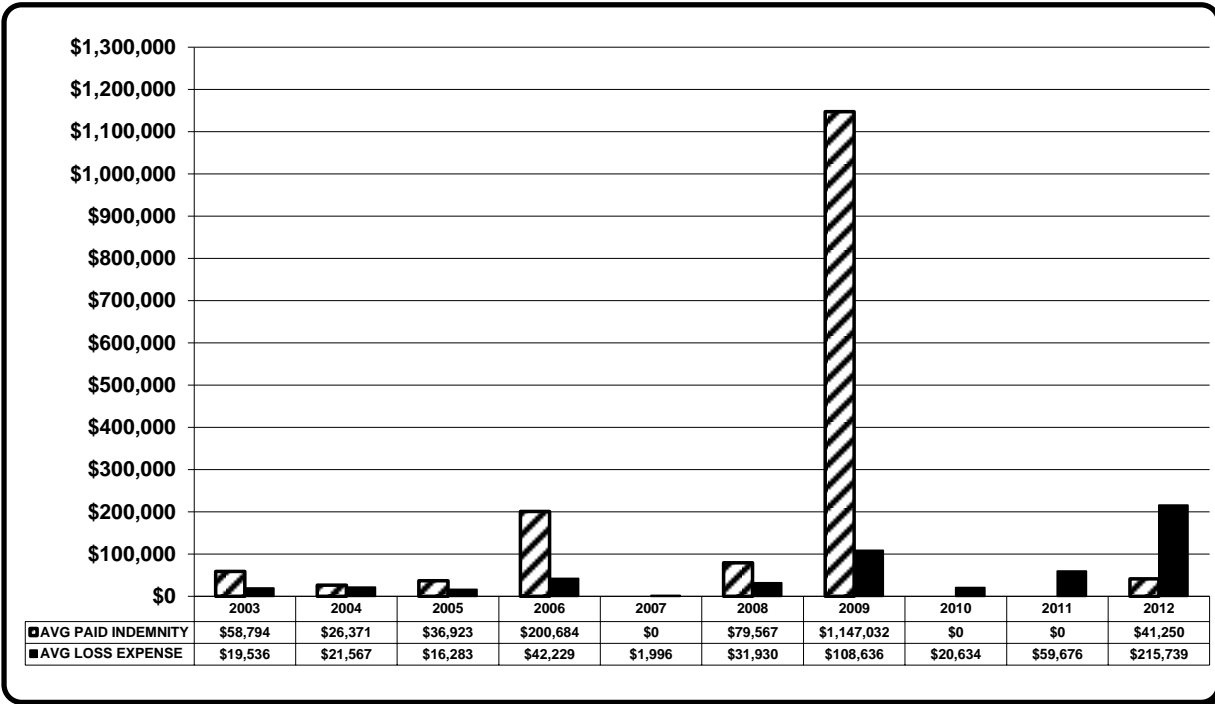


## CLAIM COUNT

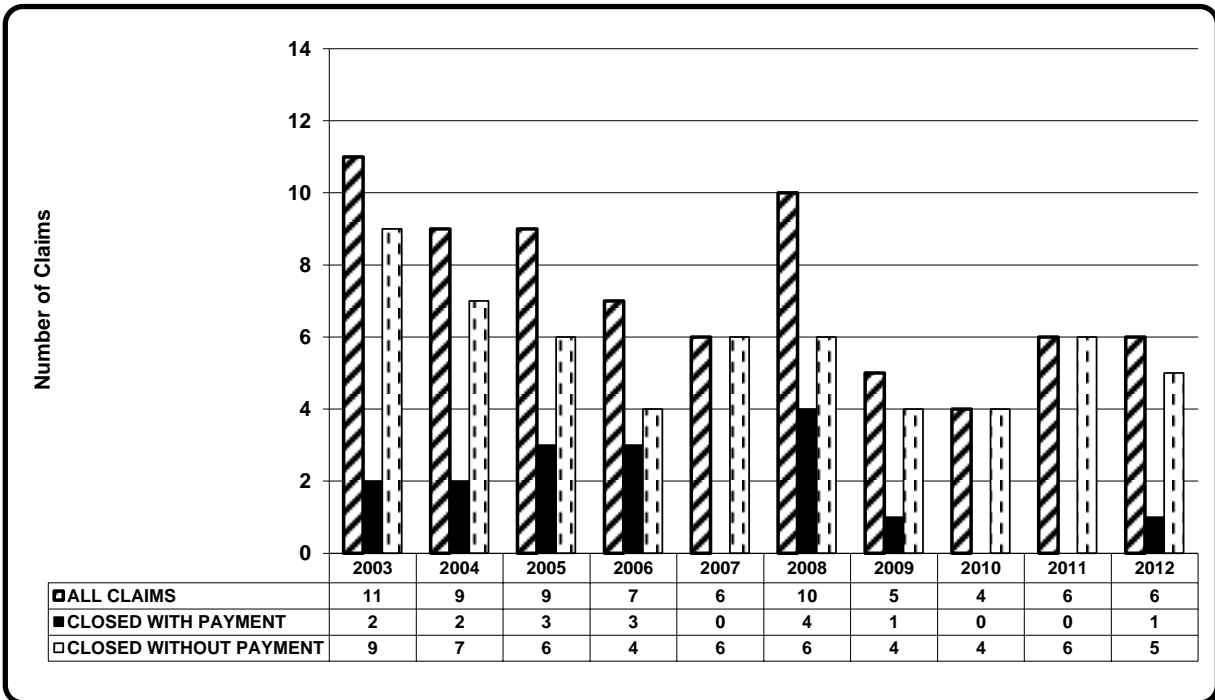


## CONFLICT OF INTEREST

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2012 SUMMARY  
BY  
CLAIM DISPOSITIONS**





# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2003-2012

CLAIM DISPOSITION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BEFORE FILING SUIT OR DEMANDING HEARING	1,017	248	39.55%	\$77,029	\$19,103,119	27.72%	\$1,975
BEFORE TRIAL OR HEARING	957	347	55.34%	\$122,065	\$42,356,382	61.47%	\$32,700
CLAIM OR SUIT ABANDONED	205	0	0.00%	N/A	\$0	0.00%	\$1,241
AFTER APPEAL	68	5	0.80%	\$523,173	\$2,615,867	3.80%	\$87,745
DURING TRIAL OR HEARING	47	8	1.28%	\$107,497	\$859,976	1.25%	\$50,351
AFTER JUDGMENT, BEFORE APPEAL	42	7	1.12%	\$346,174	\$2,423,215	3.52%	\$49,834
AFTER TRIAL OR HEARING, BEFORE JUDGMENT	41	7	1.12%	\$99,436	\$696,053	1.01%	\$42,599
DURING APPEAL	20	5	0.80%	\$170,901	\$854,507	1.24%	\$88,713
DURING REVIEW PANEL	10	0	0.00%	N/A	\$0	0.00%	\$2,329
TOTAL	2,407	627	100.00%	\$109,903	\$68,909,119	100.00%	\$19,746

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2012

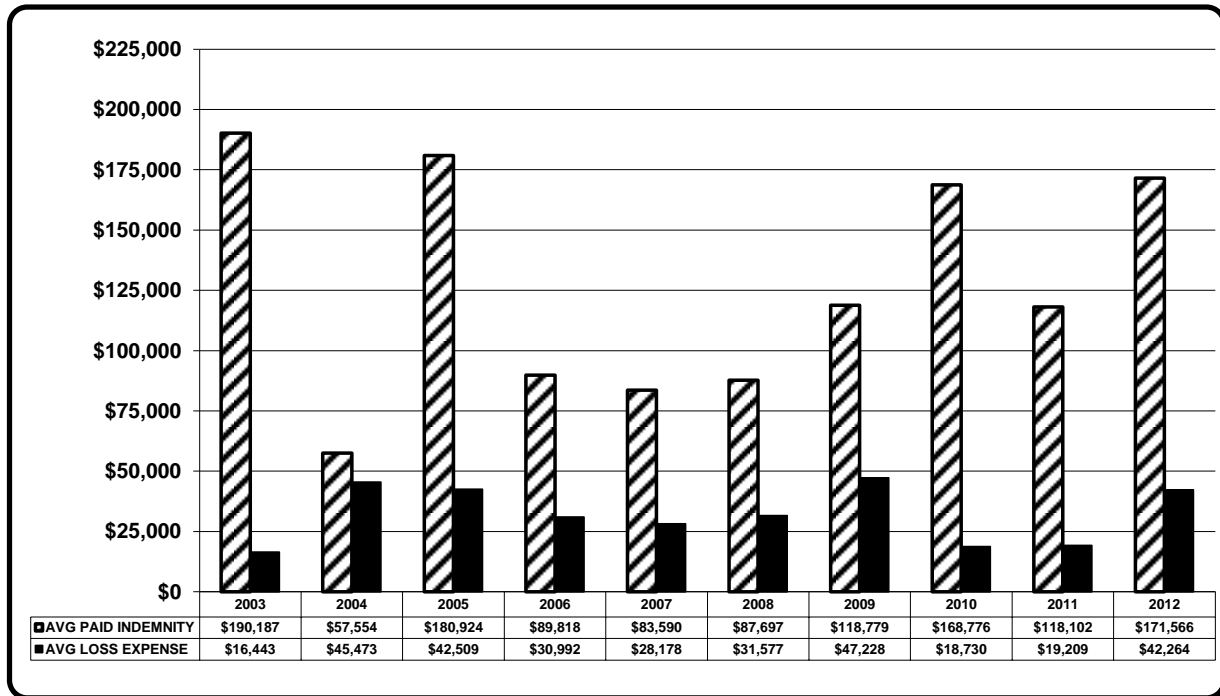
CLAIM DISPOSITION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BEFORE TRIAL OR HEARING	111	32	65.31%	\$171,566	\$5,490,126	59.22%	\$42,264
BEFORE FILING SUIT OR DEMANDING HEARING	87	16	32.65%	\$221,950	\$3,551,200	38.30%	\$4,482
CLAIM OR SUIT ABANDONED	16	0	0.00%	N/A	\$0	0.00%	\$686
AFTER TRIAL OR HEARING, BEFORE JUDGMENT	4	1	2.04%	\$229,925	\$229,925	2.48%	\$72,692
AFTER APPEAL	3	0	0.00%	N/A	\$0	0.00%	\$31,329
AFTER JUDGMENT, BEFORE APPEAL	2	0	0.00%	N/A	\$0	0.00%	\$169,124
DURING APPEAL	2	0	0.00%	N/A	\$0	0.00%	\$0
DURING TRIAL OR HEARING	1	0	0.00%	N/A	\$0	0.00%	\$260,284
TOTAL	226	49	100.00%	\$189,209	\$9,271,251	100.00%	\$26,883

**TRENDS  
OF THE TOP EIGHT  
CLAIM DISPOSITIONS  
OF 2012**

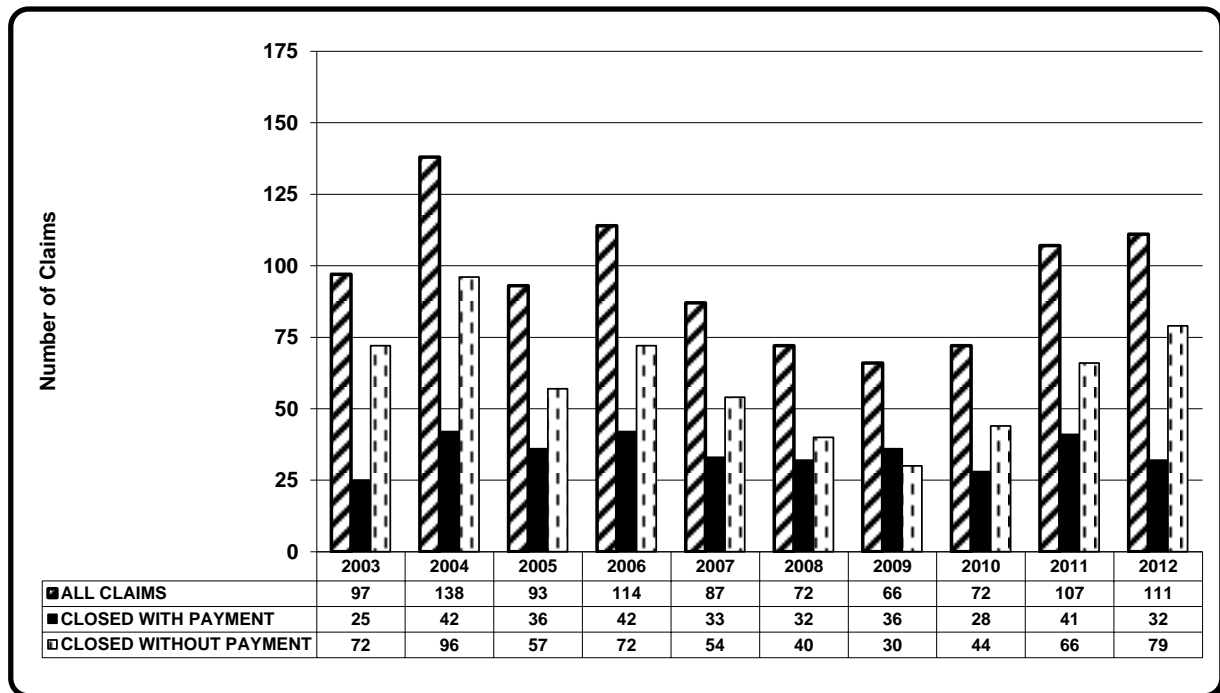


## BEFORE TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

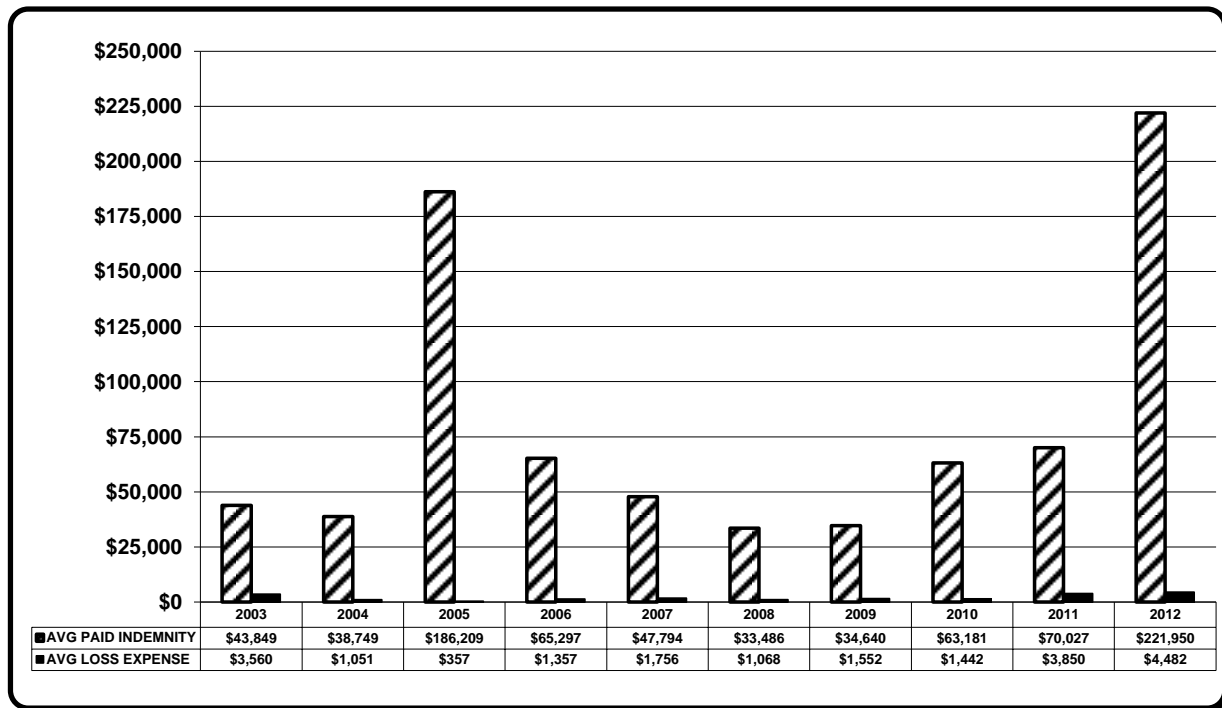


### CLAIM COUNT

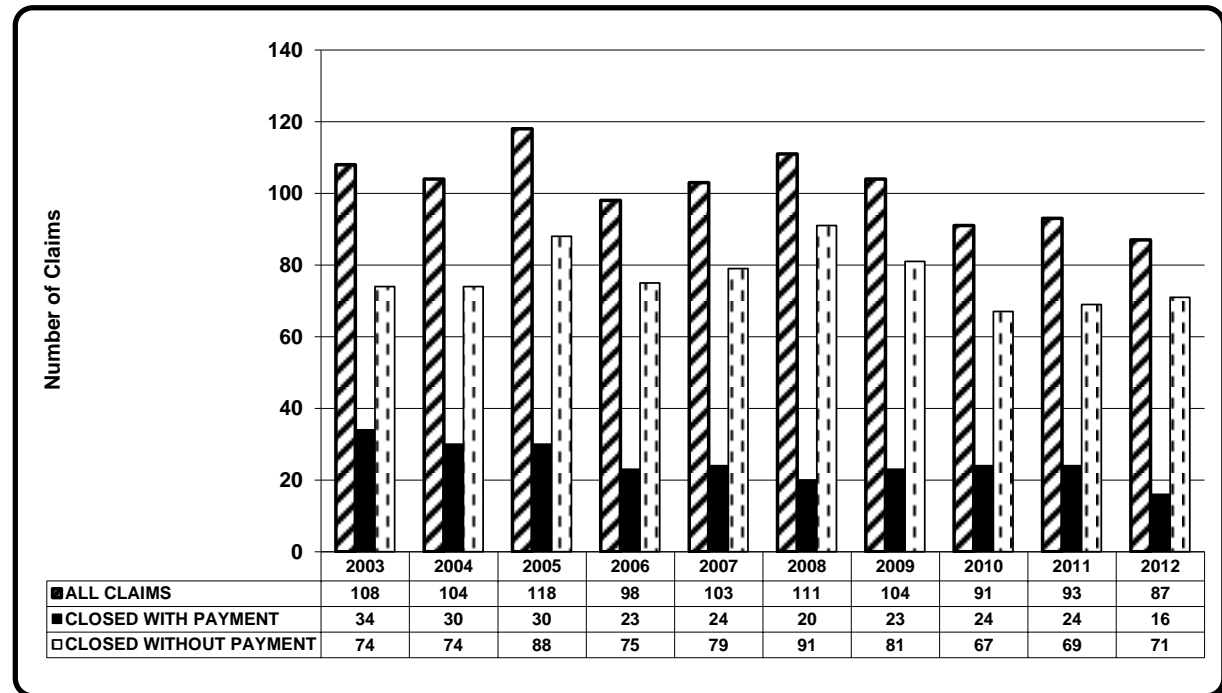


## BEFORE FILING SUIT OR DEMANDING HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

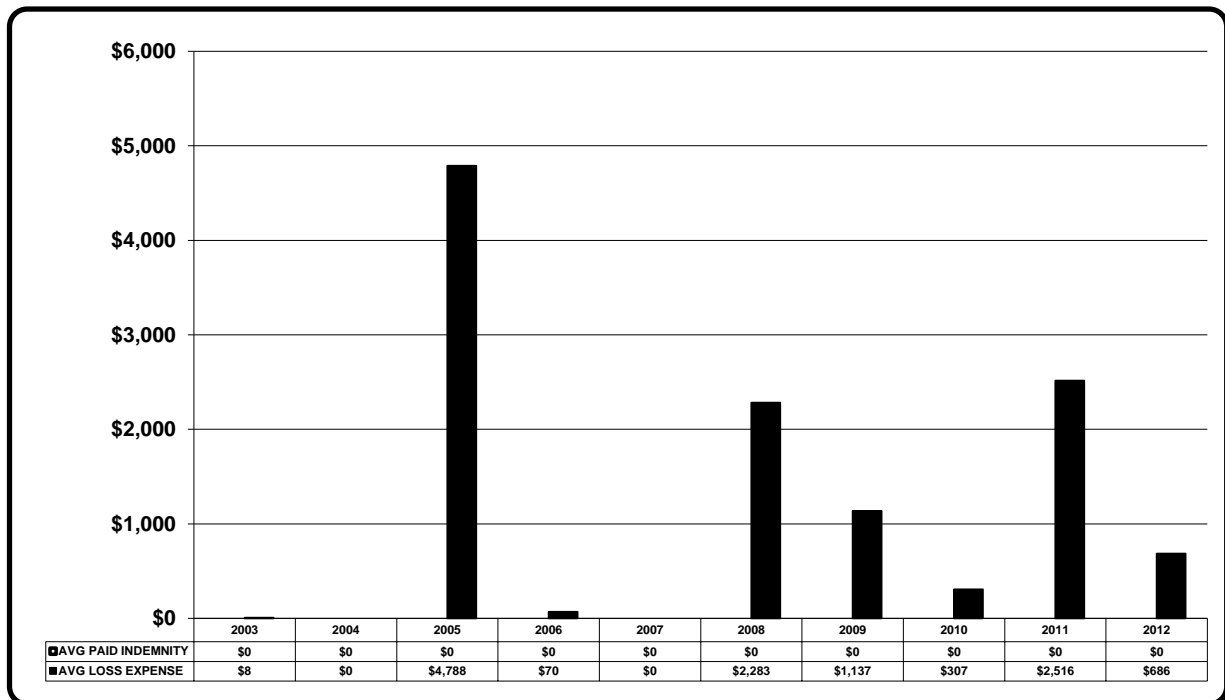


### CLAIM COUNT

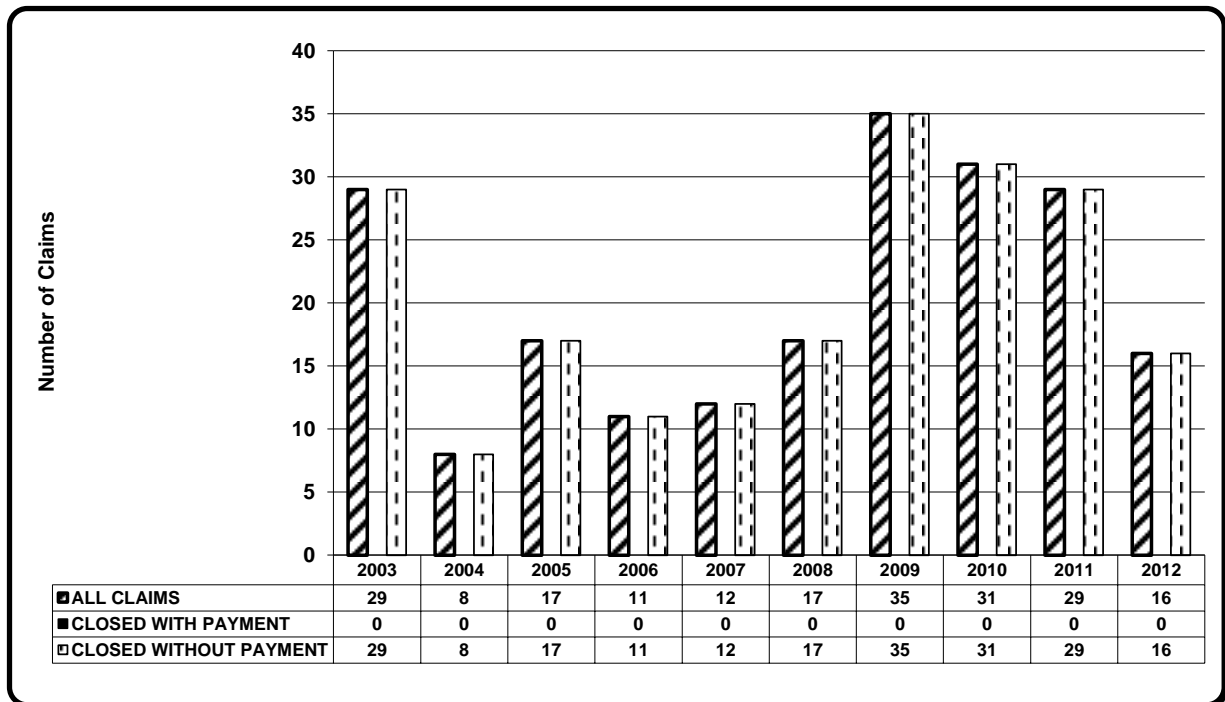


## CLAIM OR SUIT ABANDONED

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

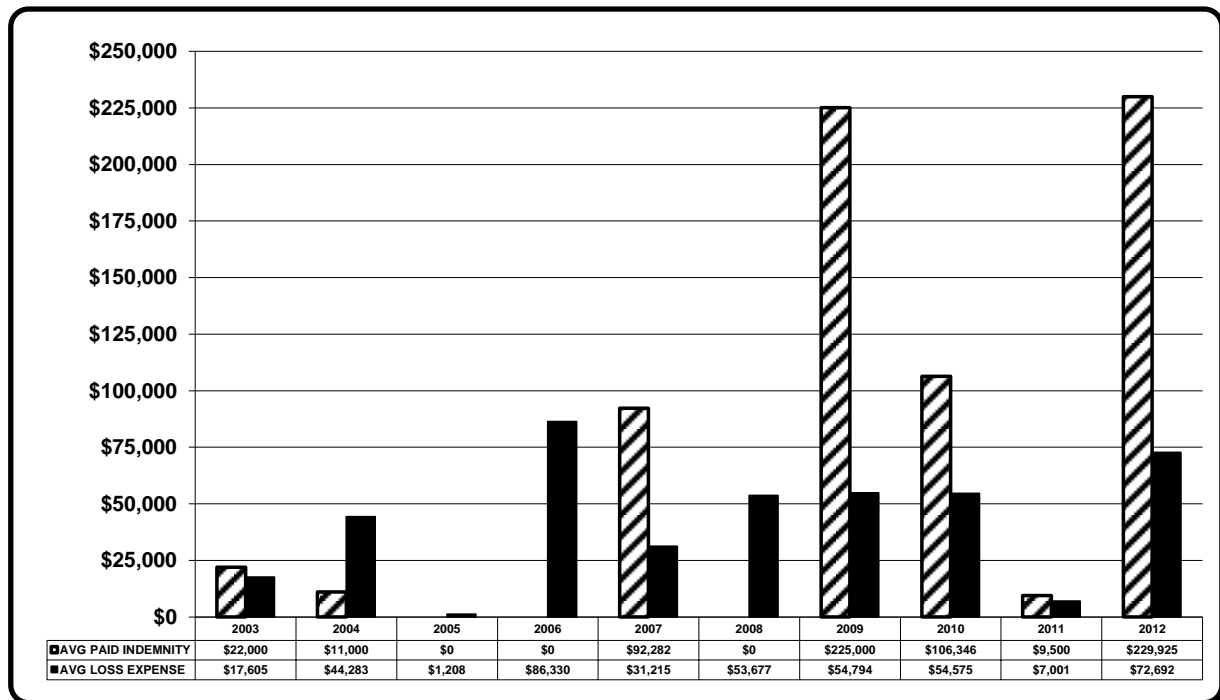


## CLAIM COUNT

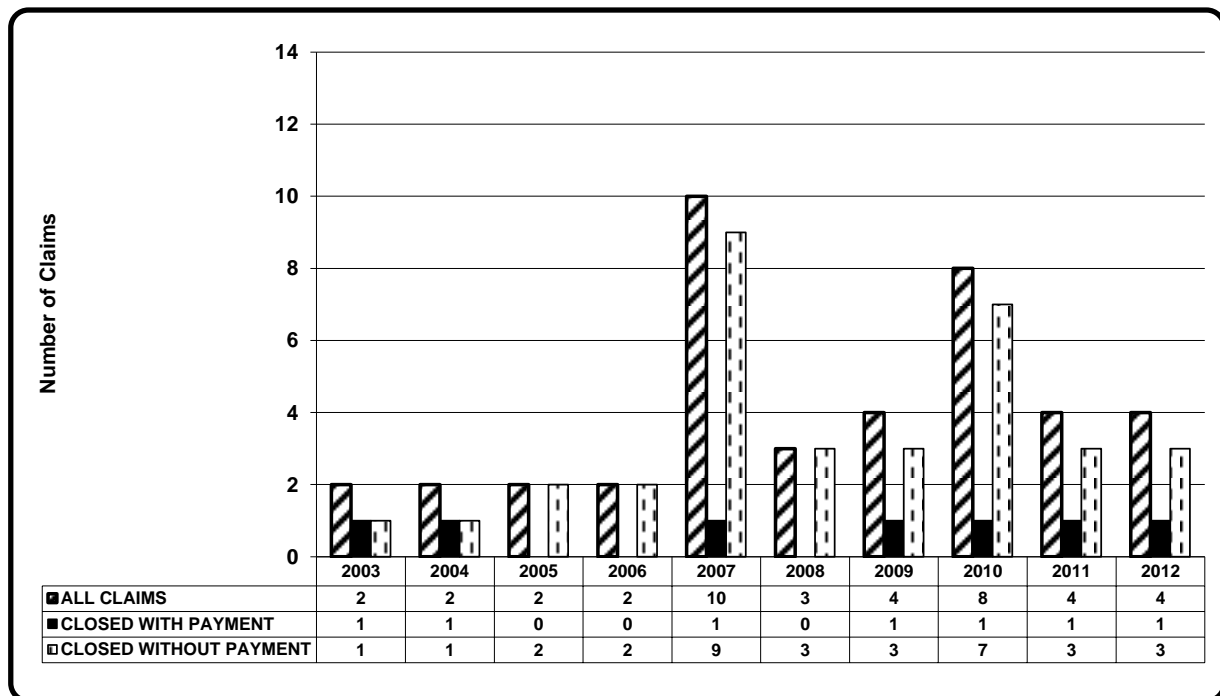


## AFTER TRIAL OR HEARING, BEFORE JUDGMENT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



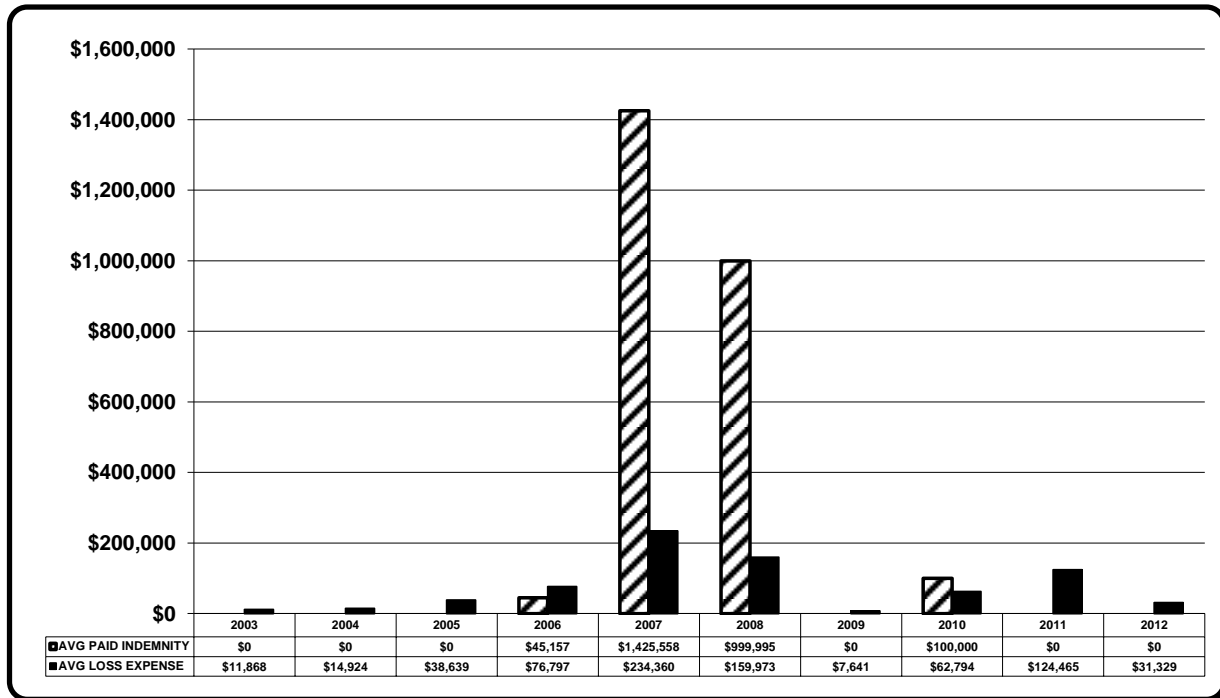
### CLAIM COUNT



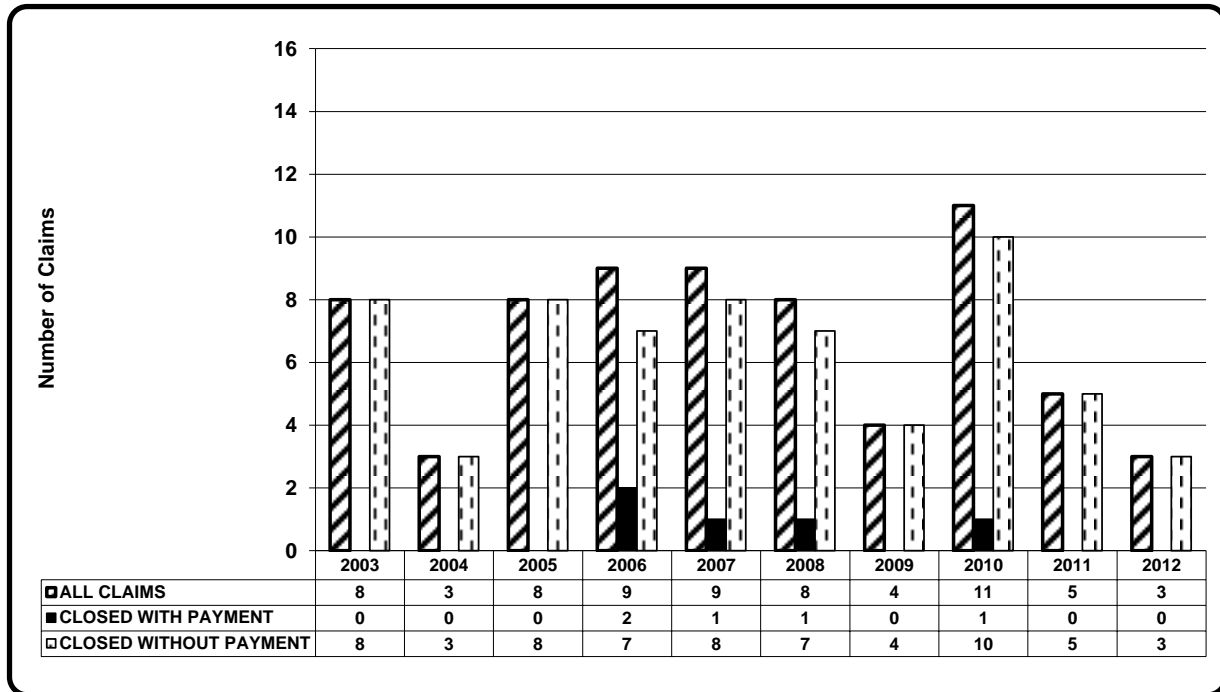


## AFTER APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

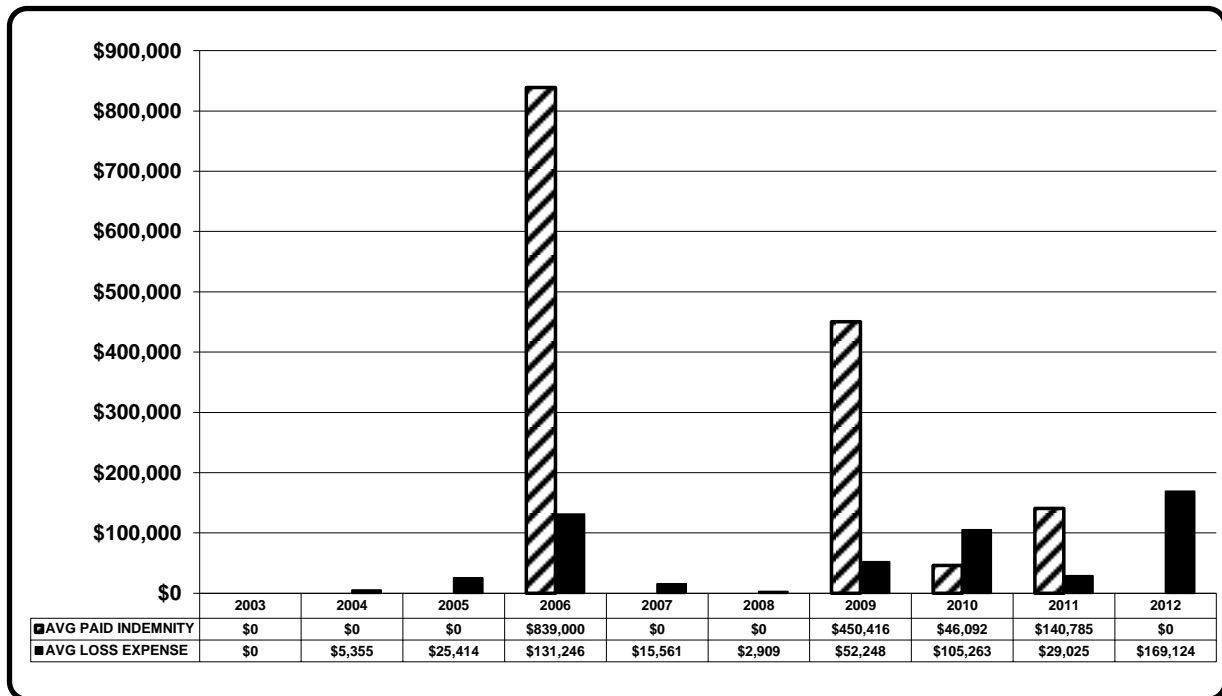


## CLAIM COUNT

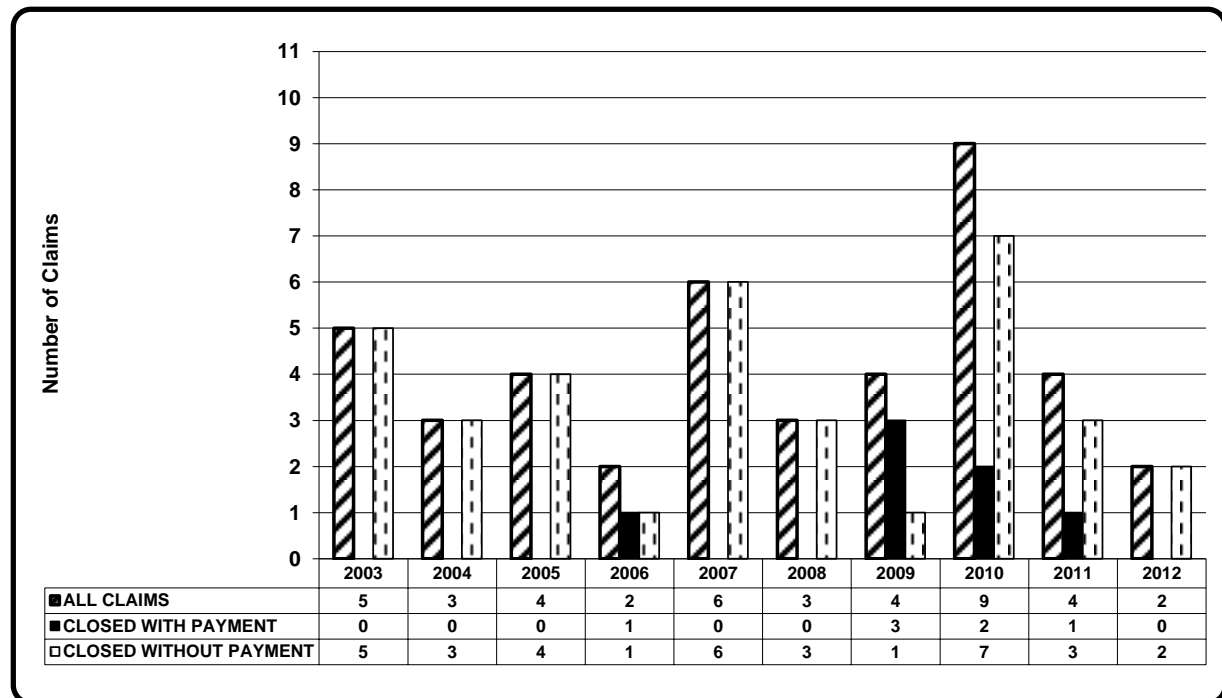


## AFTER JUDGMENT, BEFORE APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

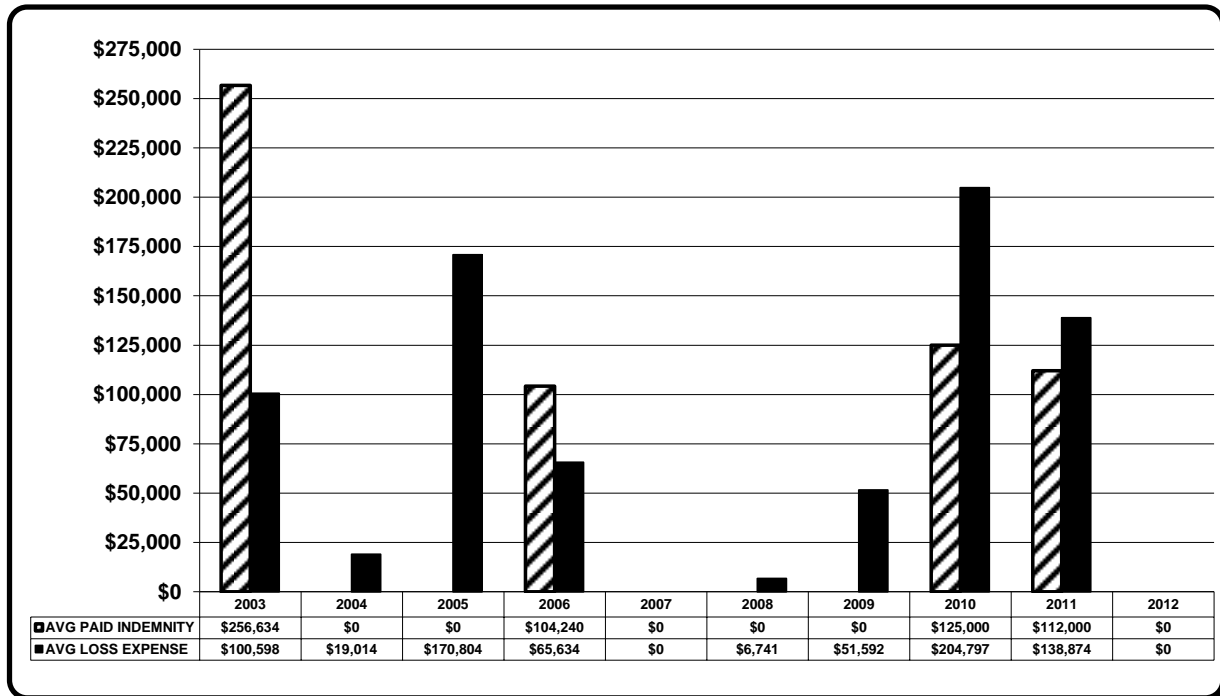


### CLAIM COUNT

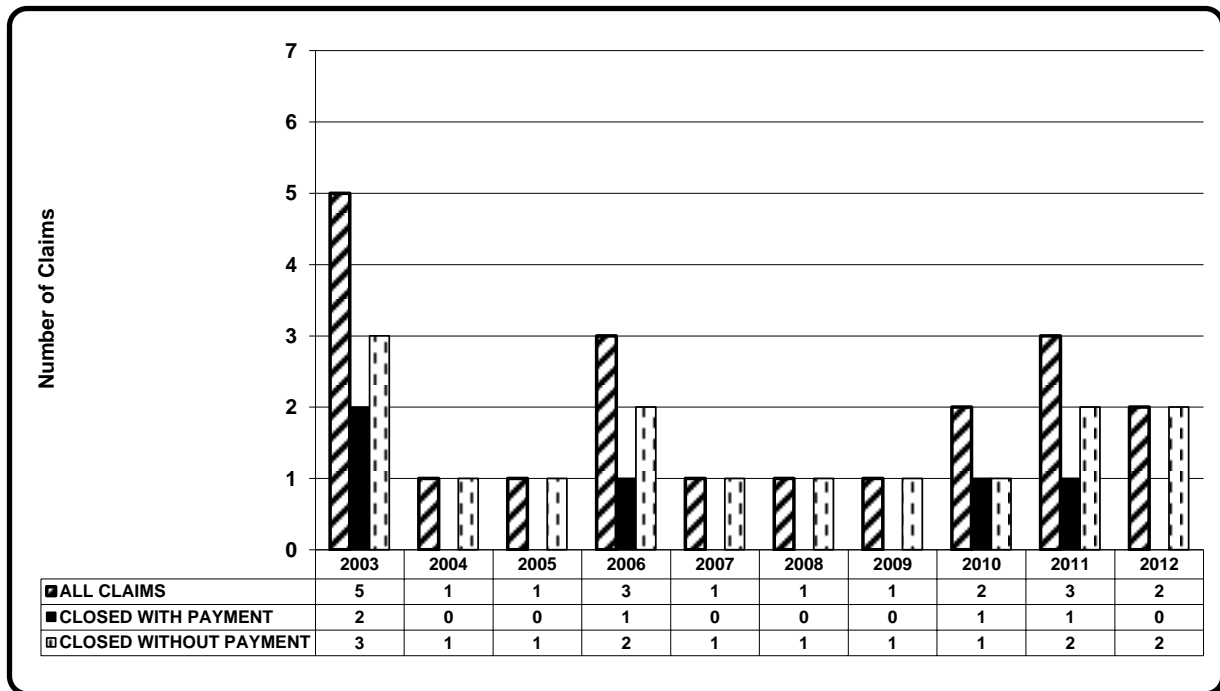


## DURING APPEAL

AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

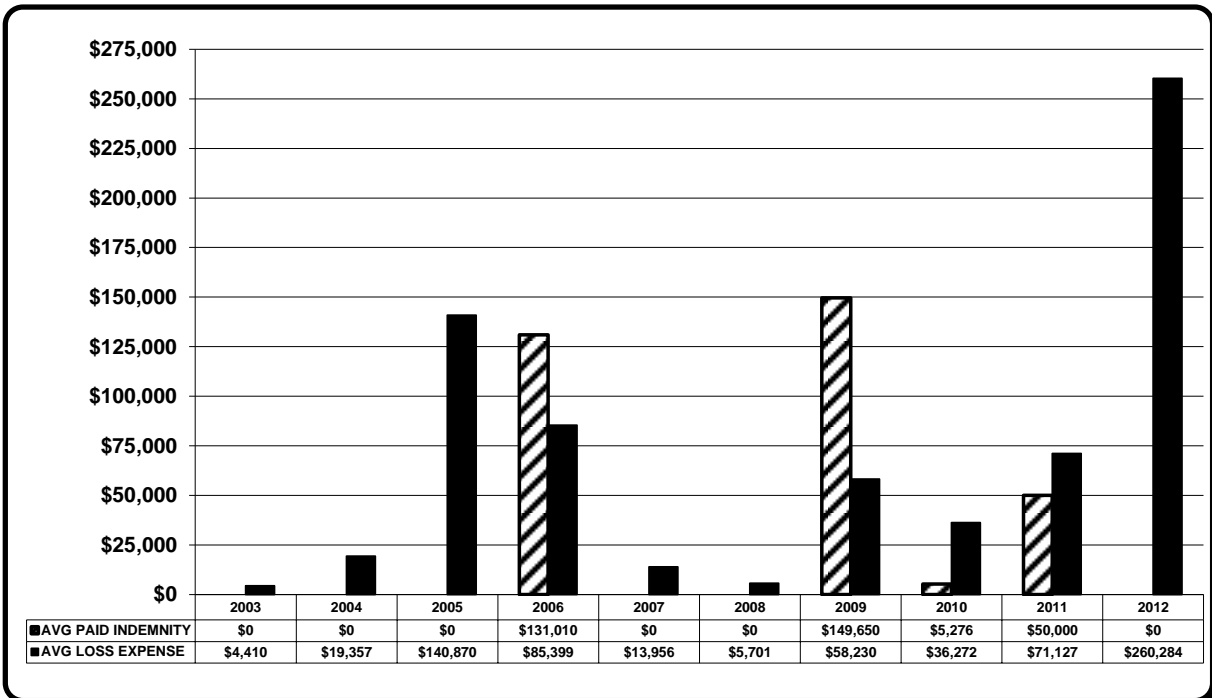


## CLAIM COUNT

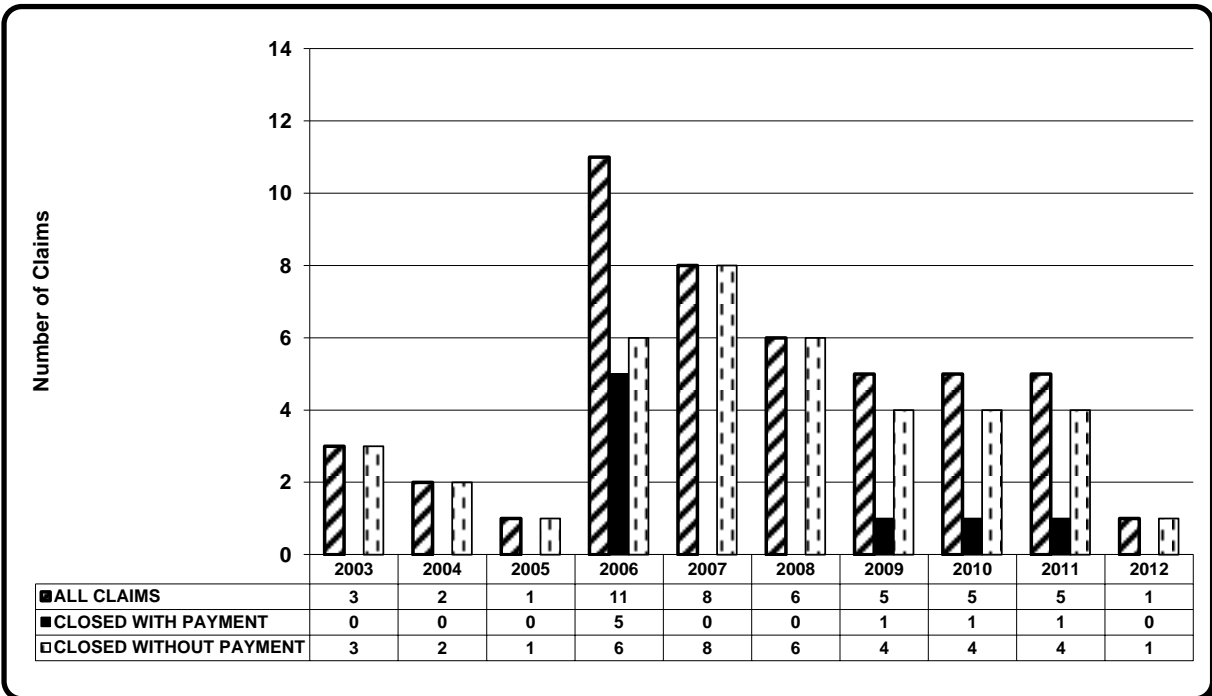


## DURING TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2012 SUMMARY  
BY  
YEARS ADMITTED TO PRACTICE**



# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2003-2012**

YEARS ADMITTED TO PRACTICE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OVER 10 YEARS	2,279	596	95.06%	\$103,201	\$61,508,060	89.26%	\$19,329
4 TO 10 YEARS	105	25	3.99%	\$285,628	\$7,140,709	10.36%	\$29,765
UNDER 4 YEARS	23	6	0.96%	\$43,392	\$260,350	0.38%	\$15,237
TOTAL	2,407	627	100.00%	\$109,903	\$68,909,119	100.00%	\$19,746

# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2012**

YEARS ADMITTED TO PRACTICE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OVER 10 YEARS	214	45	91.84%	\$204,417	\$9,198,751	99.22%	\$28,232
4 TO 10 YEARS	10	3	6.12%	\$23,333	\$70,000	0.76%	\$2,183
UNDER 4 YEARS	2	1	2.04%	\$2,500	\$2,500	0.03%	\$5,999
TOTAL	226	49	100.00%	\$189,209	\$9,271,251	100.00%	\$26,883

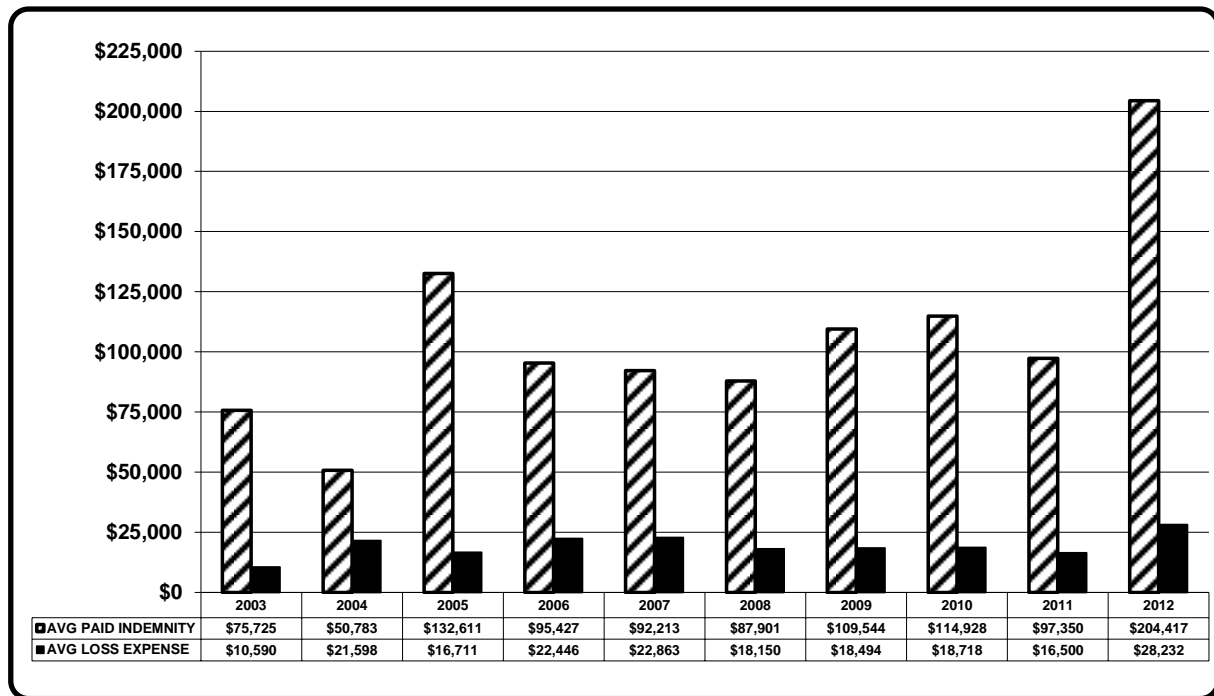


**TRENDS  
OF  
YEARS ADMITTED TO PRACTICE  
FOR 2012**

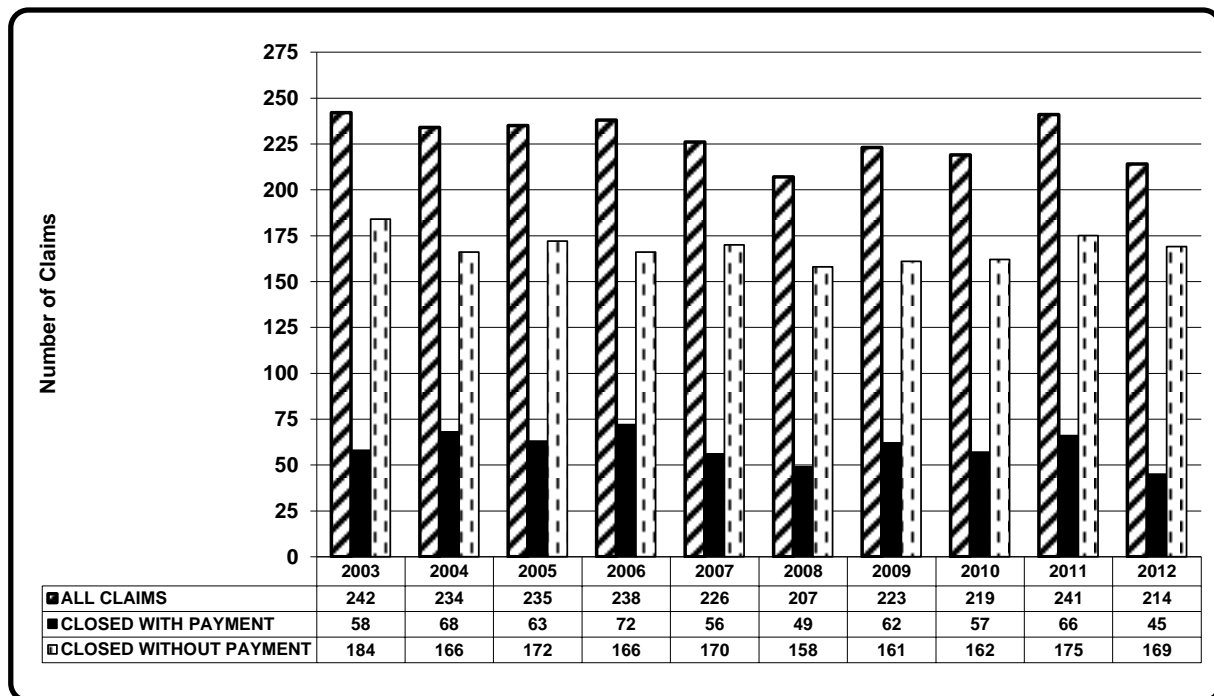


## OVER 10 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

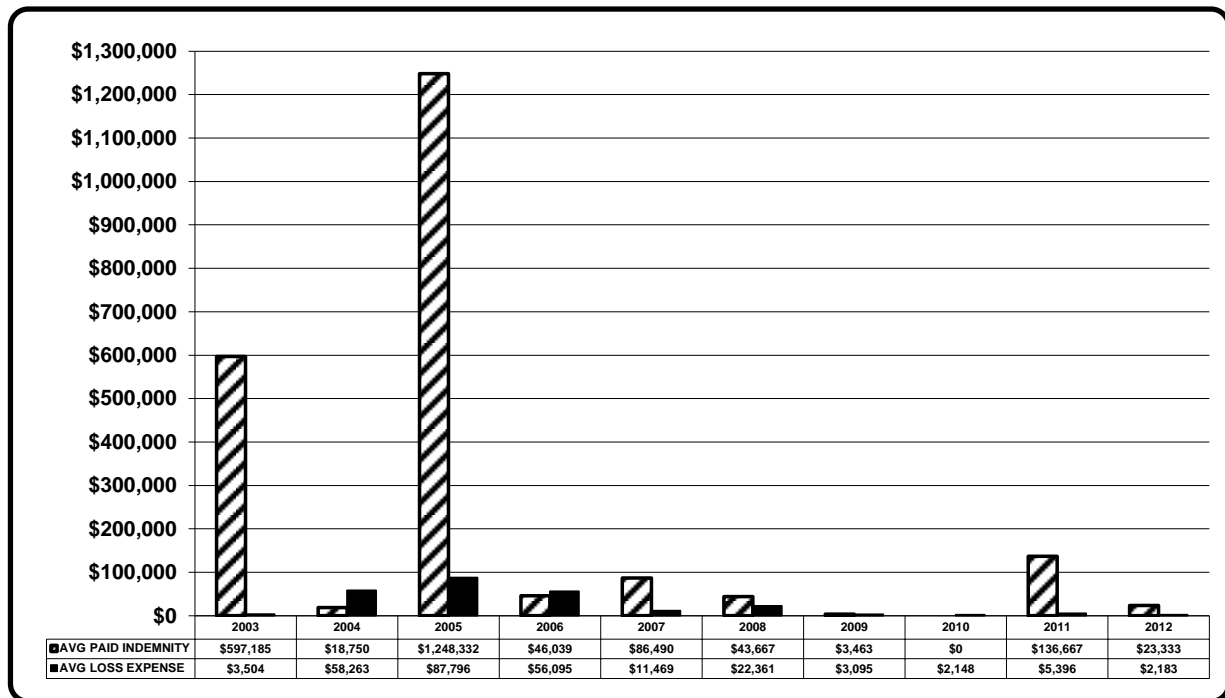


### CLAIM COUNT

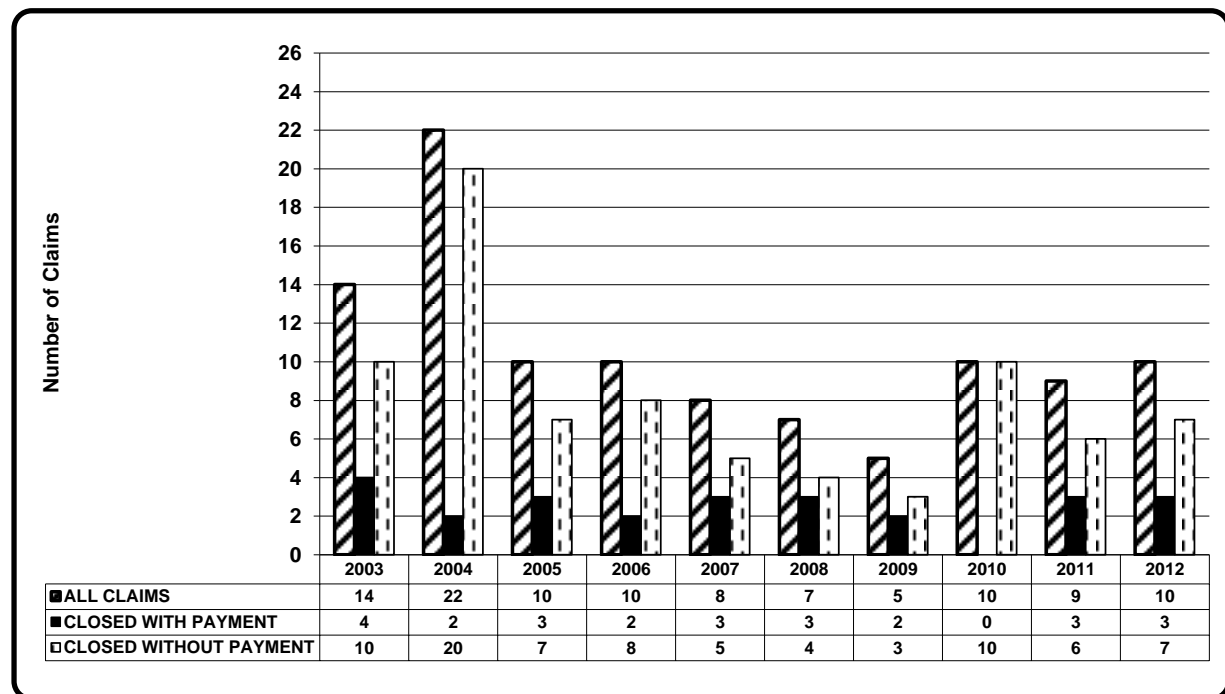


## 4 TO 10 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

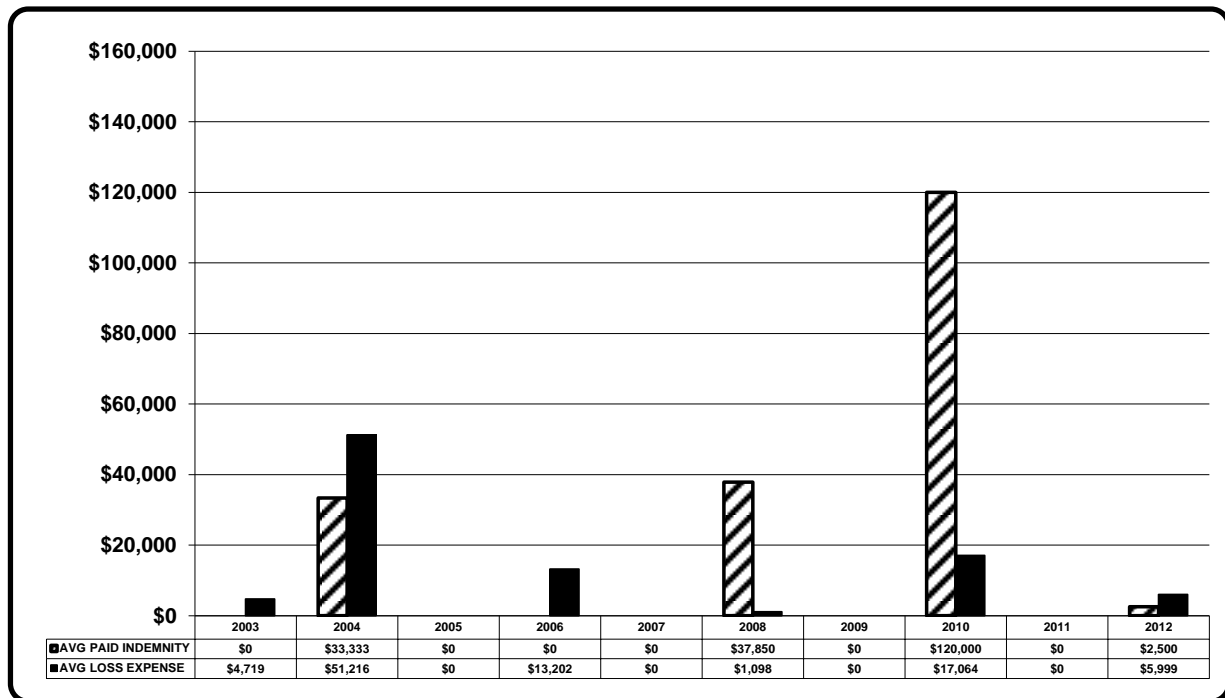


### CLAIM COUNT

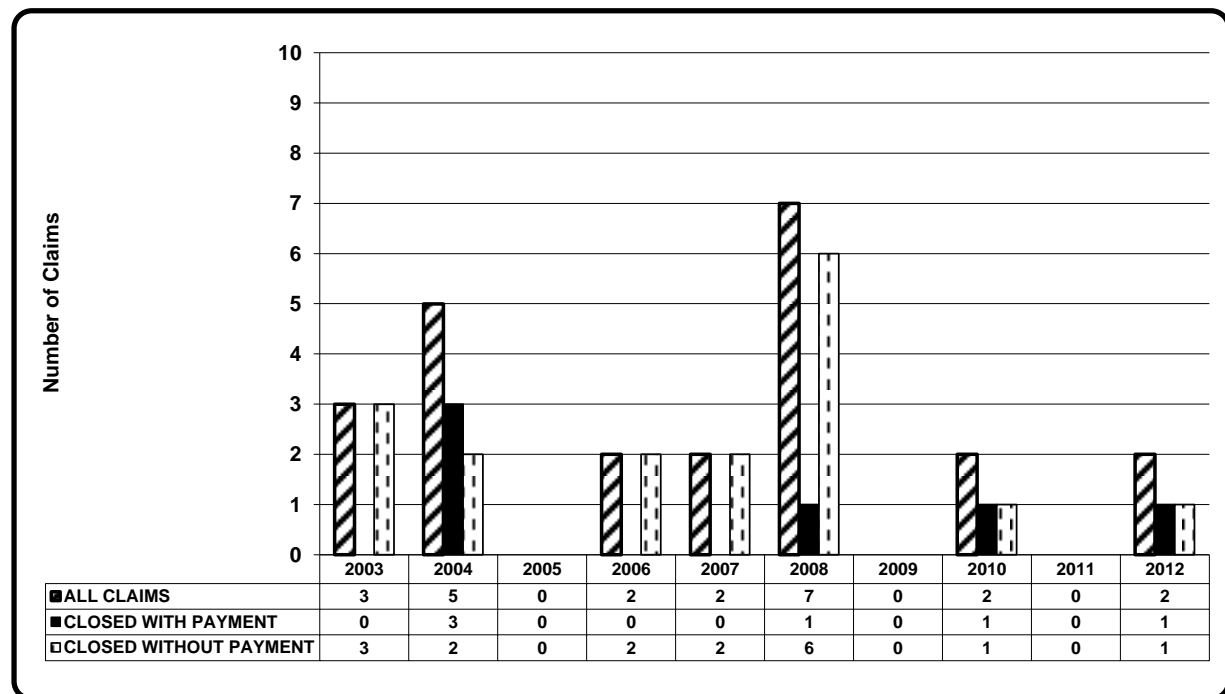


## UNDER 4 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT





**TEN YEAR SUMMARY  
&  
2012 SUMMARY  
BY  
INSURED/CLAIMANT RELATIONSHIP**





# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2003-2012**

INSURED'S RELATIONSHIP TO THE CLAIMANT	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
CLIENT OTHER THAN ABOVE	1,827	543	86.60%	\$108,919	\$59,143,061	85.83%	\$22,302
NON-CLIENT	569	81	12.92%	\$60,816	\$4,926,058	7.15%	\$9,852
MEMBER PRE-PAID LEGAL PLAN	7	3	0.48%	\$1,613,333	\$4,840,000	7.02%	\$82,287
FREE LEGAL SERVICE	4	0	0.00%	N/A	\$0	0.00%	\$150,018
<b>TOTAL</b>	<b>2,407</b>	<b>627</b>	<b>100.00%</b>	<b>\$109,903</b>	<b>\$68,909,119</b>	<b>100.00%</b>	<b>\$19,746</b>

# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2012**

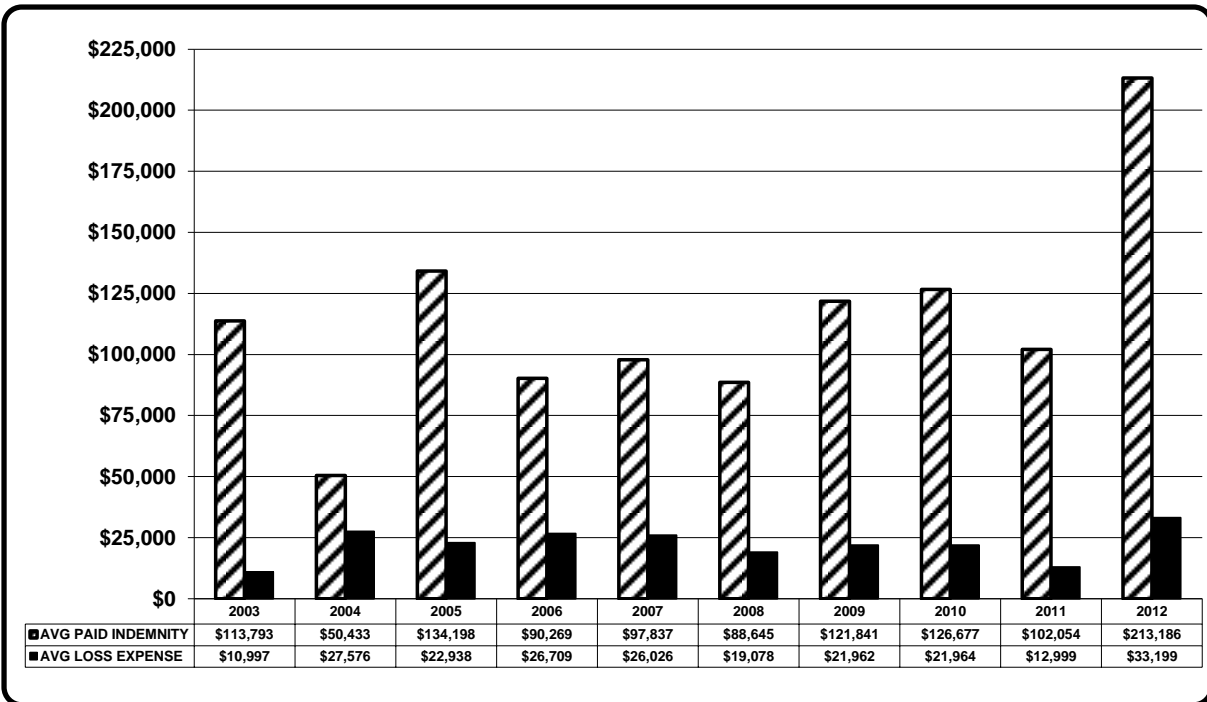
INSURED'S RELATIONSHIP TO THE CLAIMANT	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
CLIENT OTHER THAN ABOVE	153	39	79.59%	\$213,186	\$8,314,254	89.68%	\$33,199
NON-CLIENT	69	9	18.37%	\$76,889	\$691,997	7.46%	\$7,296
MEMBER PRE-PAID LEGAL PLAN	4	1	2.04%	\$265,000	\$265,000	2.86%	\$123,156
TOTAL	226	49	100.00%	\$189,209	\$9,271,251	100.00%	\$26,883

**TRENDS  
OF  
INSURED/CLAIMANT  
RELATIONSHIP  
FOR 2012**

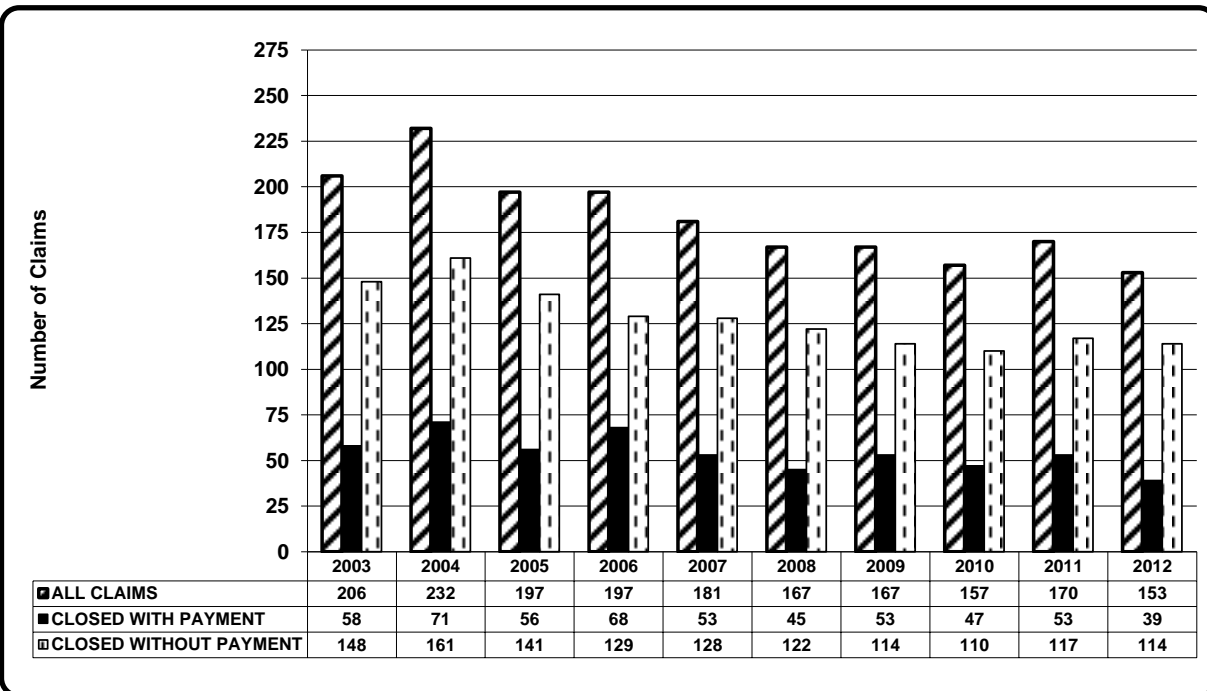


## CLIENT OTHER THAN FREE LEGAL SERVICE OR MEMBER OF PRE-PAID LEGAL PLAN

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

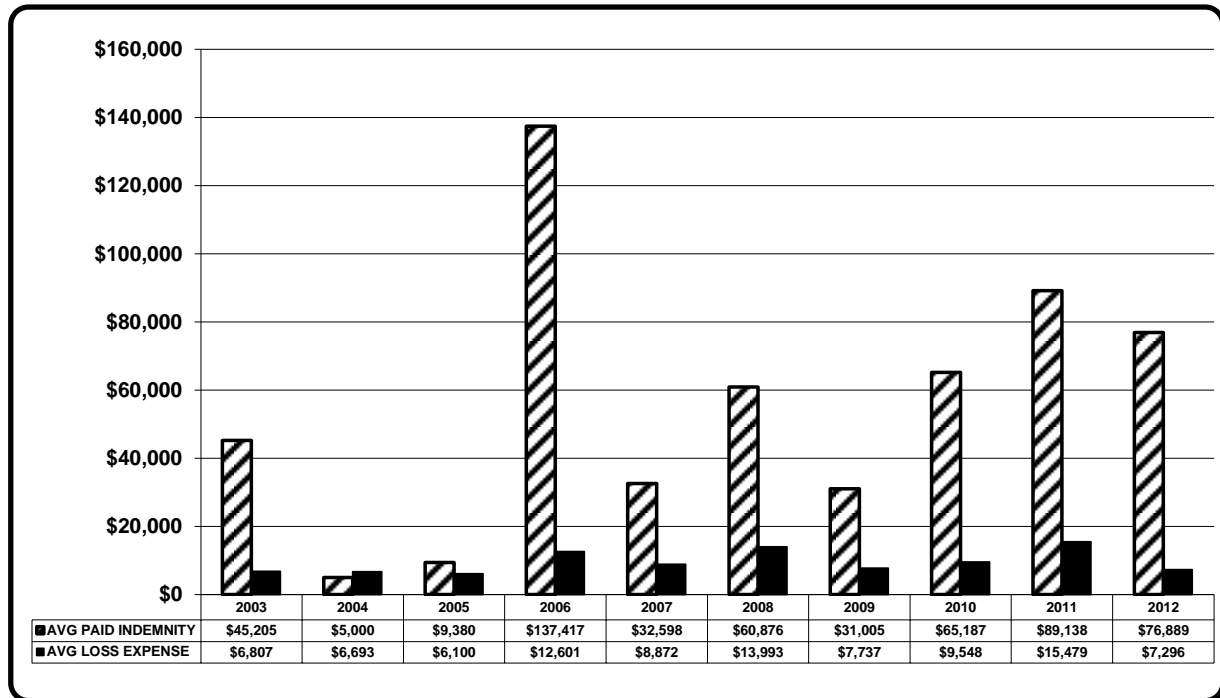


### CLAIM COUNT

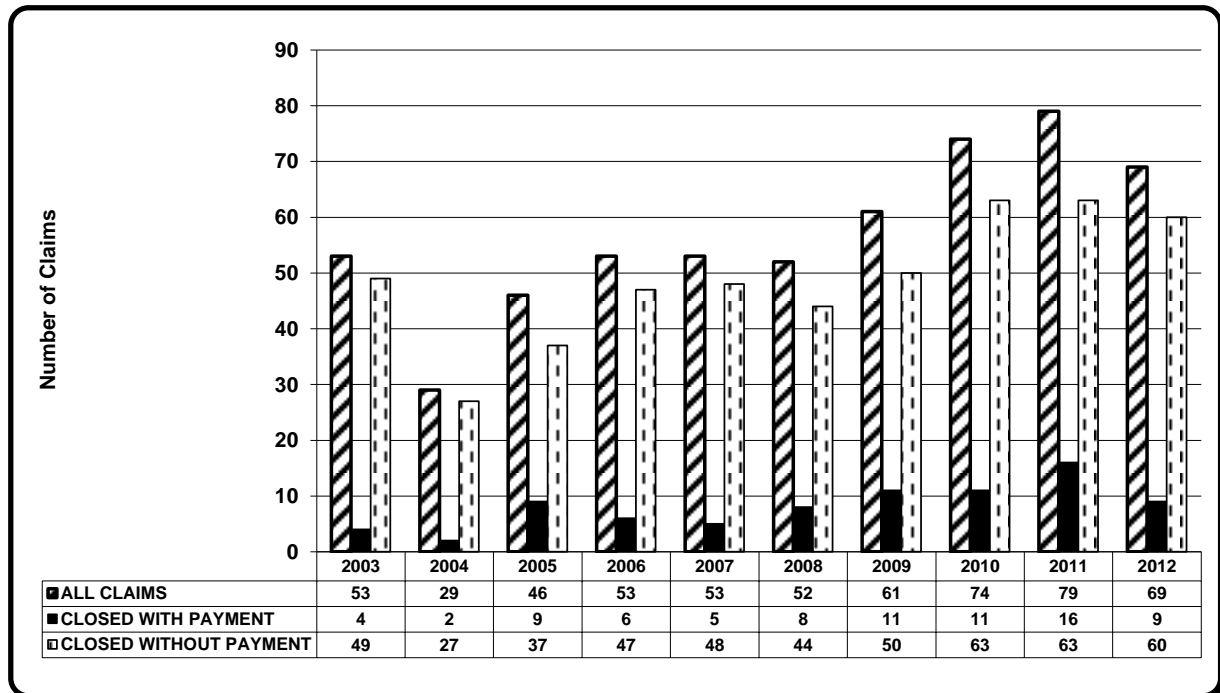


## NON-CLIENT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

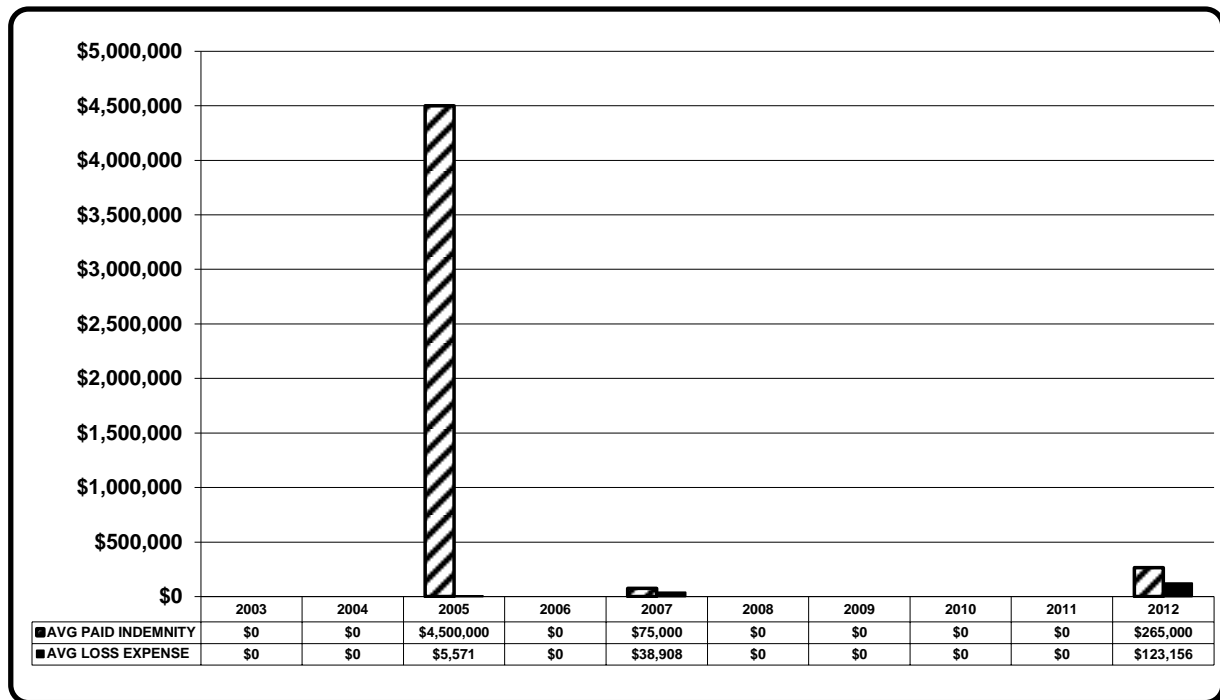


## CLAIM COUNT

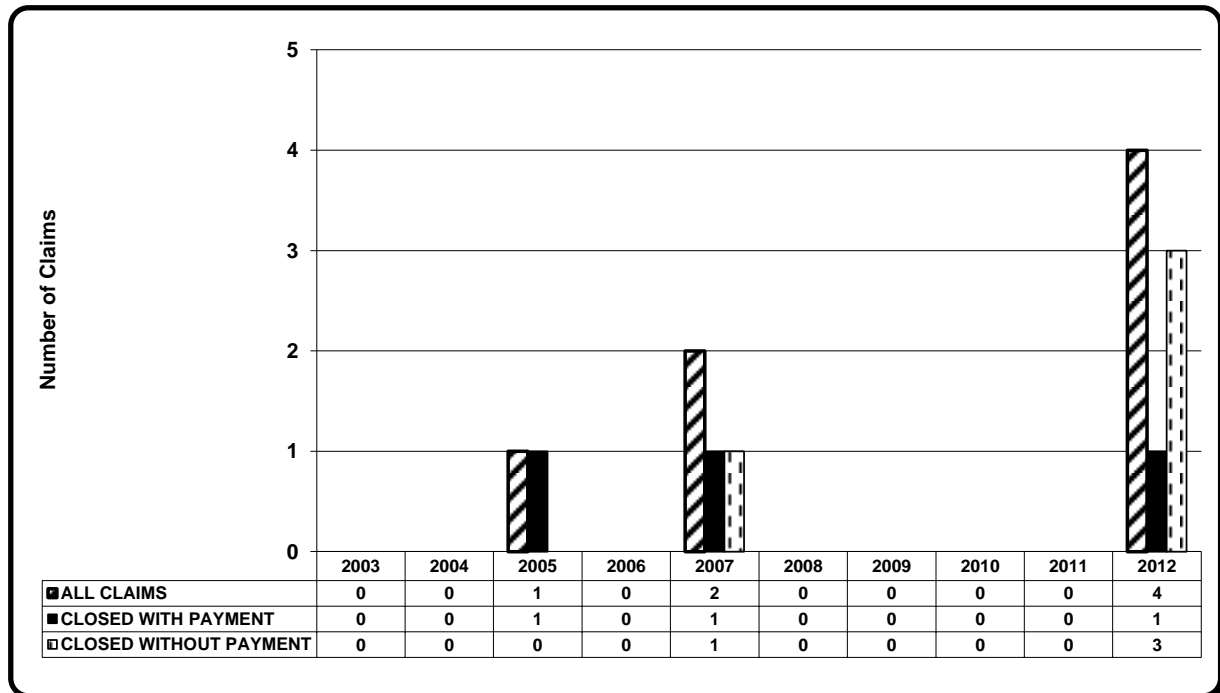


## MEMBER PRE-PAID LEGAL PLAN

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT







# **PREMIUM AND LOSS DATA**



**PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE  
WITH MARKET SHARE**

**2012 EXPERIENCE**

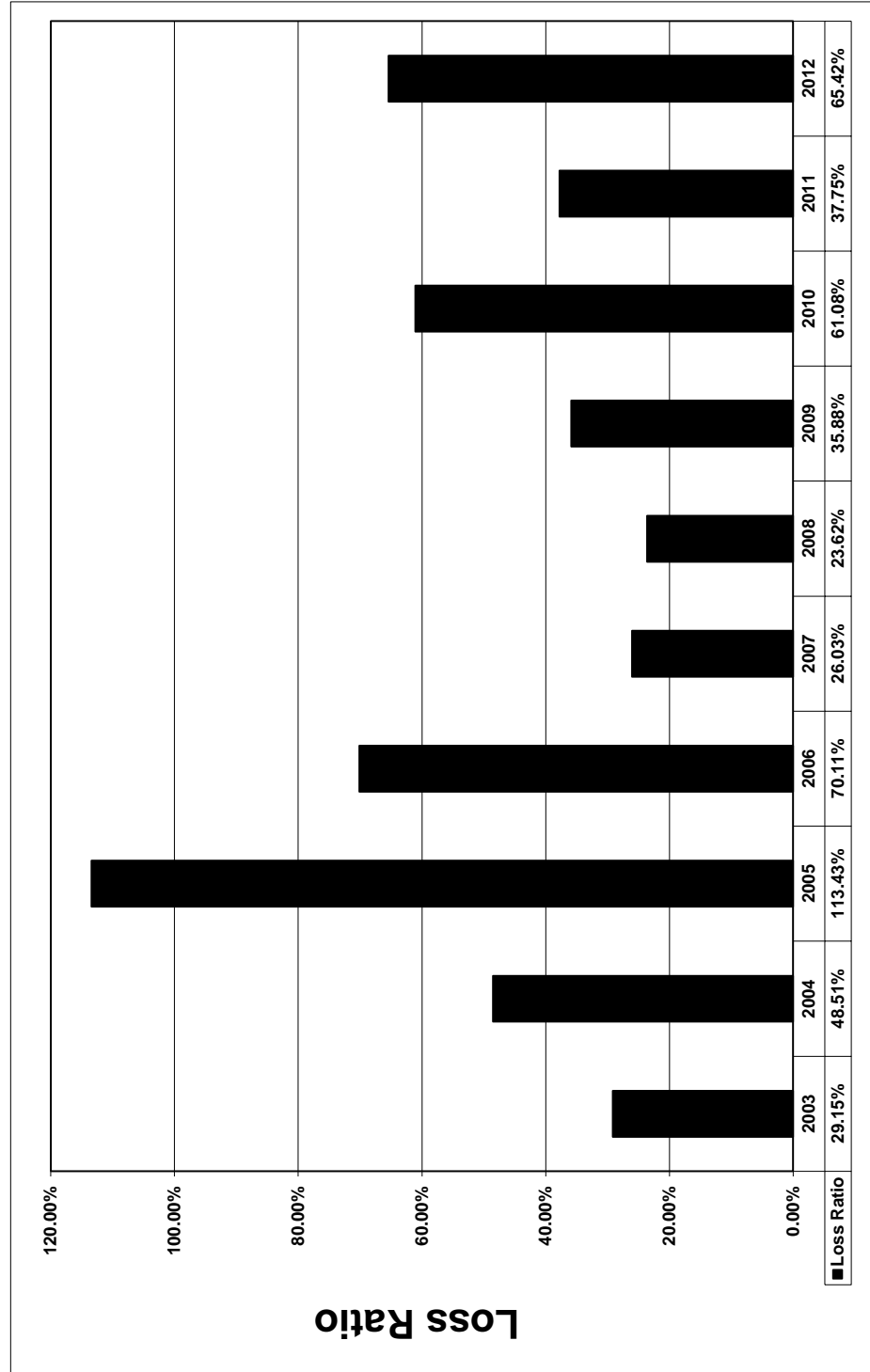
NAIC Company Code	Company Name	Market Share	Written Premium	Earned Premium	Incurred Losses	Loss Ratio
29513	BAR PLAN MUTUAL INSURANCE COMPANY THE	66.95%	\$10,281,642	\$10,131,802	\$4,338,526	42.82%
20443	CONTINENTAL CASUALTY COMPANY	15.60%	\$2,394,961	\$2,183,472	\$1,771,113	81.11%
22292	HANOVER INSURANCE COMPANY THE	9.63%	\$1,479,146	\$830,621	\$627,986	75.60%
27154	ATLANTIC SPECIALTY INSURANCE COMPANY	2.90%	\$445,865	\$295,955	\$146,133	49.38%
29459	TWIN CITY FIRE INSURANCE COMPANY	1.47%	\$225,860	\$222,075	\$996,734	448.83%
10510	CAROLINA CASUALTY INSURANCE COMPANY	0.96%	\$147,662	\$153,953	(\$5,516)	-3.58%
25585	PROFESSIONALS DIRECT INSURANCE COMPANY	0.79%	\$121,067	\$859,544	\$1,462,598	170.16%
31194	TRAVELERS CASUALTY AND SURETY CO OF AMER	0.72%	\$109,936	\$97,535	\$50,000	51.26%
37273	AXIS INSURANCE COMPANY	0.42%	\$64,262	\$36,973	\$37,581	101.64%
24147	OLD REPUBLIC INSURANCE COMPANY	0.21%	\$32,855	\$35,308	\$60,622	171.69%
22241	MEDMARC CASUALTY INSURANCE COMPANY	0.13%	\$19,316	\$21,804	\$51,390	235.69%
22322	GREENWICH INSURANCE COMPANY	0.12%	\$17,762	\$15,916	\$16,071	100.97%
39845	WESTPORT INSURANCE CORPORATION	0.09%	\$13,823	\$12,887	(\$2,117)	-16.43%
29424	HARTFORD CASUALTY INSURANCE CO	0.01%	\$1,612	\$1,622	(\$55,541)	-3424.23%
12831	STATE NATIONAL INSURANCE COMPANY INC	0.01%	\$1,181	\$3,094	\$2,607	84.26%
15865	NCMIC INSURANCE COMPANY	0.00%	\$0	\$0	(\$650)	N/A
16691	GREAT AMERICAN INSURANCE COMPANY	0.00%	\$0	\$0	(\$94,225)	N/A
21970	ONEBEACON INSURANCE COMPANY	0.00%	\$0	\$185,893	(\$226,363)	-121.77%
22136	GREAT AMERICAN INSURANCE CO OF NEW YORK	0.00%	\$0	\$0	\$29,687	N/A
24767	ST PAUL FIRE & MARINE INSURANCE COMPANY	0.00%	\$0	\$0	\$758,280	N/A
24775	ST PAUL GUARDIAN INSURANCE COMPANY	0.00%	\$0	\$0	(\$31,496)	N/A
26344	GREAT AMERICAN ASSURANCE COMPANY	0.00%	\$0	\$0	(\$1,386)	N/A
33367	INTERMED INSURANCE COMPANY	0.00%	\$0	\$0	(\$60,602)	N/A
33723	GREAT AMERICAN SPIRIT INSURANCE COMPANY	0.00%	\$0	\$0	(\$80)	N/A
TOTAL		100.00%	\$15,356,950	\$15,088,454	\$9,871,352	65.42%

**PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE**

**TEN YEAR SUMMARY**

<b>YEAR</b>	<b>Written Premium</b>	<b>Earned Premium</b>	<b>Incurred Losses</b>	<b>Loss Ratio</b>
2003	\$13,057,678	\$11,671,741	\$3,402,619	29.15%
2004	\$14,539,856	\$13,343,100	\$6,472,267	48.51%
2005	\$14,794,606	\$14,145,032	\$16,044,522	113.43%
2006	\$17,435,456	\$16,719,059	\$11,720,958	70.11%
2007	\$17,727,731	\$17,152,684	\$4,464,212	26.03%
2008	\$16,324,591	\$16,766,853	\$3,959,872	23.62%
2009	\$15,787,723	\$15,994,807	\$5,738,199	35.88%
2010	\$14,955,313	\$15,124,731	\$9,238,427	61.08%
2011	\$14,269,499	\$14,608,084	\$5,514,132	37.75%
2012	\$15,356,950	\$15,088,454	\$9,871,352	65.42%
<b>10-YEAR TOTAL</b>	<b>\$154,249,403</b>	<b>\$150,614,545</b>	<b>\$76,426,560</b>	<b>50.74%</b>

PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE  
TEN YEAR LOSS RATIO SUMMARY



## **Insurance Consumer Hotline**

Contact DIFP's Insurance Consumer Hotline  
if you have questions about your insurance policy  
or to file a complaint against an  
insurance company or agent:

**difp.mo.gov**

**800-726-7390**



# **DIFP**

Department of Insurance,  
Financial Institutions &  
Professional Registration

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PO Box 690  
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**JULY 2013**